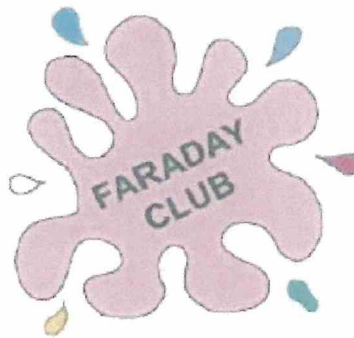
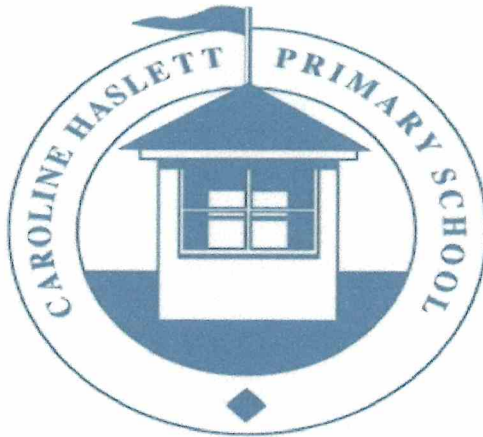


# Caroline Haslett Primary School & Faraday Club



## Redeployment and Redundancy Policy

**Date of Issue:** January 2022

**Date of next review:** January 2025 (or earlier in the event of legislation changes)

**Approved by the Headteacher on:** \_\_\_\_\_

Signed: \_\_\_\_\_ (Headteacher) Date: \_\_\_\_\_

**Approved by the Governing Board on:** \_\_\_\_\_

Signed: \_\_\_\_\_ (Chair of Governors) Date: \_\_\_\_\_



# Redeployment and Redundancy Policy

## Guidelines Interpreted for Schools

**<https://www.milton-keynes.gov.uk/schools-and-lifelong-learning>**

Date issued: May 2020 V12.0  
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Prepared by: Human Resources

## Document Control

<b>Revision History</b>			
<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Summary of Changes</b>
2	23.1.12	Jean Sargent	Updated statutory redundancy weekly pay cap amount – currently £430 per week
3	1.2.13	Jean Sargent	Updated statutory redundancy weekly pay cap amount – effective from 1 February 2013 - £450
4	6.4.14	Jean Sargent	Updated statutory redundancy weekly pay cap amount – effective from 6 April 2014 - £464
5	Jun 2014	Jean Sargent	Guidelines updated in line with Pay and Reward Changes – Notice Periods and Pay Protection
6	April 2015	Jean Sargent	Various Pages - Confirmation of the Increased Weekly Statutory Redundancy Pay Cap to £475
7	November 2016	Declan Leith	Various Pages – Confirmation of the Increased Weekly Statutory Redundancy Pay Cap to £479  Clarification on the availability of Redeployment support.  Update to terminology to reflect the change from Governing Body to Governing Board
8	June 2017	Declan Leith	Page 19 - Confirmation of the Increased Weekly Statutory Redundancy Pay Cap to £489
9	November 2017	Declan Leith	Page 20 – Removal of the reference to the Premature Compensation Policy for Teachers which is now no longer applicable.
10	January 2018	Declan Leith	Various pages – removal of reference to premature retirement costs.
11	July 2018	Declan Leith	Page 23 - Data Protection Paragraph
12	May 2020	Penelope Croucher & Lisa Kelly	Policy review – updates to redeployment section and increase to weekly statutory redundancy pay cap.

## Contents

Page number	Section	Content
2		Document Control
3		Contents
4		Glossary
6	1	Scope of policy and introduction
7	2	Organisational change
8	3	Financial responsibility
8	4	Consultation
9	5	Individual consultation
10	6	Consultation periods
10	7	Close of consultation
11	8	Appointment to the new structure
12	9	Redeployment
13	10	Trial period
13	11	Temporary redeployment
14	12	Pay protection
15	13	Redundancy process in schools
16	14	Selection criteria for redundancy pools
16	15	Selection criteria to identify individuals
17	16	Unfair selection for redundancy
18	17	Dismissal
18	18	Notice periods
19	19	Redundancy compensation payment
20	20	Voluntary redundancy
20	21	Appeals against selection for redundancy
21	22	Redundancy appeal hearing
21	23	Support to employees at risk of redundancy
23	24	Data Protection

## GLOSSARY

<b>Term</b>	<b>Description</b>
Appeals Committee	Governing Board committee responsible for taking appeal decisions
Consultation	Informing e.g. staff group or trade union of a change and obtaining their comments, counter proposals or views so that they can be fully considered before the change is implemented
Council's HR Schools Team	A HR specialist employed at the council rather than a contracted HR provider
Early retirement	Retirement before the age of 65
Establishment	School or place of employment
Fixed Term Contract	A contract of employment with a specific and stated end date
Governing Board	Corporate body with general responsibilities for the conduct of the school
HR	Human Resources
HR provider	Human Resources (HR) team that are contracted by the school to deliver their HR services
IEB	Interim Executive Board
JE	Job Evaluation
Job share	One job where the duties and hours are shared by two or more part time staff
Maternity regulations	Government regulations covering women before and after their child birth
Natural wastage	Where the employment of too many staff is reduced by staff voluntarily leaving or changing job rather than through redundancy
Pay protection	Method of protecting the pay of staff redeployed to lower graded posts for a temporary period of time.
Pension strain	Additional costs of paying an employee's pension early
Preferred candidate status	Maybe granted for redeployed employees when applying for a vacancy on their substantive grade. This means that their application will be considered prior to any others, but that they will need to go through a formal recruitment process and evidence that they have the skills and ability to meet the essential requirements of the job
Prior consideration	Process whereby employees at risk of redundancy are considered for vacancies before they are advertised more widely
Redeployment	Transferring staff to an alternative job
Redundancy Committee	Governing Board committee responsible for taking redundancy decisions
Ring fenced	A vacant post(s) held open specifically for staff at risk of redundancy
Secondment	Where staff temporarily transfer to an alternative job for a limited period of time. At the end of that period they return to their existing job.

Slotting in	Where it is possible for staff to be transferred to a vacant post without going through a formal selection process
Staff Side Representatives	Trade Union representatives
Substantive grade	Permanent grade (as opposed to being temporary)
Support Staff	Staff working in a school in a non-teaching post
Trial period	Where an employee is redeployed for a temporary period to assess their suitability for a job
Voluntary redundancy	Staff volunteer for redundancy rather than it being compulsory
Workforce Planning	A plan to consider current and future workforce needs and produce actions to ensure that they are met e.g. by training or succession planning

## 1. Scope of policy and introduction

### Scope of policy

On adoption by the Governing Board or Interim Executive Board (IEB) these guidelines **will apply** to the following types of schools:

- a) Community schools
- b) Voluntary-controlled schools
- c) Community special schools

These guidelines will **not apply** to the following types of school as the council is not the employer of their staff. However, the Governing Board may choose independently to adopt these guidelines with appropriate amendments.

- a) Foundation and Trust schools
- b) Voluntary-aided schools
- c) Academies
- d) City Technology Colleges
- e) Foundation special schools
- f) Independent schools

### Introduction

These guidelines follow:

- a) The principles set out in the council's Redeployment and Redundancy Policy (council policy is indicated and included in italics amended to reference school bodies and job titles as appropriate). The council's policy was drawn up following consultation with the recognised trade unions and teachers' professional associations.
- b) The process required to meet governance arrangements within schools.

#### *Council policy*

*Milton Keynes Council is committed to providing all staff with a stable working environment where possible. However circumstances may arise where developments in, for example, technology and organisational requirements necessitate the need for change. Organisational change can lead to restructuring and movement of staff and such situations will be handled sensitively and fairly.*

*This policy applies to all employees of Milton Keynes Council. For school based staff the principles contained in this policy should be applied but agreement from the Governing Board will be required.*

*This policy may be subject to review from time to time. This policy does not form part of employee's terms and conditions of employment, and does not confer any contractual entitlement.*

## **2. Organisational change**

### *Council policy*

*At the outset of any anticipated change it is the responsibility of managers (the Governing Board/IEB) to draw up a robust business case to justify the proposed strategy.*

The business case must contain the following elements:

- Reasons for the proposed restructure
- Benefits (financial and non-financial)
- Risks and employee relations issues
- Dependencies
- Proposed timescales and resource requirements

It is vital that the Governing Board/IEB consults with their HR provider and their financial specialist prior to formulation of the business case, which will include an assessment of pension strain, to ensure that employee and financial implications of the proposals are adequately addressed.

For a business case to be acted upon, it must demonstrate that it will bring operational benefits and/or deliver a net saving to the school or council over a period of three years.

The requirement for a robust business case is crucial as this document will be shared as part of the formal consultation with staff and the teachers' professional associations and trade unions.

### *Council policy*

*The council (Governing Board/IEB), in conjunction with the Director of Children's Services, will endeavour where at all possible to preserve employment and mitigate against the need for any job losses.*

This may include exploring:

- Workforce planning
- Natural wastage
- Restrictions on recruitment
- Reductions or elimination of overtime
- Short time working
- Voluntary redundancies or early retirement
- Restricting the use of agency staff and consultants
- Unpaid leave
- Temporary job share or reduction in hours
- Secondment to other organisations

The Governing Board/IEB is strongly advised to seek advice at the earliest opportunity. This advice is available from the Director of Children's Services (or her/his representative; Councils Schools HR team). In any event, the Governing Board/IEB must notify the council about the possibility of a staff reduction at the earliest opportunity (this should be done by contacting the Councils Schools HR Team). The Director of Children's Services (or her/his representative) have the right to be present at all meetings of the Governing Board/IEB and its committees



when the issue of a staffing reduction is under discussion. The Director of Children's Services (or her/his representative) may normally attend such meetings in order to provide advice and support.

Where the Governing Board/IEB has delegated the responsibility for dismissals to the headteacher, the headteacher will make the decision on which post(s) are to be declared redundant based on the agreed criteria.

#### *Council policy*

*A redundancy situation arises where:*

- a) the school ceases or intends to cease to carry on activity or work for which the employee was employed; or*
- b) the school ceases or intends to cease to carry on activity or work in the place where the employee worked; or*
- c) the requirement for employees to carry out work of a particular kind or in a particular location has ceased or diminished, or is expected to cease or diminish.*

#### TUPE transfer

Where, as a result of organisational change, e.g. contracting out of school cleaning services or the school becoming an academy, it is proposed that staff TUPE transfer from the employment of the local authority and where they have existing membership of the Local Government Pension Scheme (LGPS) and/or Teachers Pension Scheme (TPS), the implications must be raised by the headteacher with the council's HR Business Partner and included in the business case. This is to ensure that any pension issues are dealt with prior to transfer.

### **3. Financial responsibility**

The school will need to follow the Council's financial regulations in respect of redundancy costs and severance payments in schools. (A copy of the 'Redundancy premature retirement costs and severance payments in maintained schools' can be obtained from finance team).

### **4. Consultation**

#### **Collective consultation**

##### *Council policy*

*The council (and Governing Board/IEB) will advise employees and Staff Side Representatives at the earliest time possible of the need to restructure or reduce employee numbers.*

A statutory notice (s188) on behalf of the Governing Board/IEB and the council should be issued providing the information outlined below.

##### *Council policy*

*Formal consultation commences when potentially affected employees and their representatives are provided with the business case outlining the proposals in writing. Under employment law, this must also include the following information if a redundancy situation is likely to arise:*

- *The number and descriptions of employees likely to be affected.*

- *The total number of employees of that description employed at the establishment in question.*
- *The proposed method that will be used to make selection for redundancy.*
- *The proposed method of implementing, and the likely timing of, the redundancies.*

In addition

- The method of calculation for redundancy compensation to be paid to those who are dismissed.
- The date of the first consultation meeting (if known at the time).

The consultation documents will include the business case, structure charts (old and new), and new role profiles where applicable along with a statutory notice letter giving notice of the commencement of the formal consultation process. Formal consultation will be deemed to have commenced from this point.

#### *Council policy*

*The object of the consultation will be to find ways of avoiding redundancies if achievable or if redundancies are unavoidable, to minimise the impact on individuals as far as possible. As part of the process the council (Governing Board/IEB) must consider and respond to representations made by the teachers' professional associations and trade unions including for example ways of avoiding, reducing numbers or mitigating the consequences of the dismissals.*

At the same time as the statutory notice (s188) is issued the headteacher will inform the staff of the situation and the date of the first consultation meeting. This will take place as soon as possible. Those invited should include all staff likely to be affected, the relevant trade unions and professional association representatives, a representative of the Redundancy Committee and the Director of Children's Services (or her/his representative; Council Schools HR Team). In exceptional circumstances there may be a need to hold more than one consultation meeting for staff on different conditions of service. Advice should be sought from your HR provider.

As part of any proposed restructure/reduction in posts the Governing Board/IEB should ensure that they look at all possible measures which may help prevent the need for redundancy. Discussion should be restricted to broad issues only. This will avoid members of the Schools Redundancy and Appeal Committees having detailed prior knowledge of individuals before making their decisions.

A range of options are possible and the Governing Board/IEB is advised to discuss the situation with their HR provider to determine whether any of the possible measures are appropriate. Any measures that may offer a solution should be explored in more detail with the trade unions/professional associations as part of the formal consultation process.

There is no absolute legal requirement to obtain agreement on these matters before implementing redundancies but the headteacher/Governing Board/IEB must be able to show that the views of the trade unions/professional associations have been given serious consideration and that consultation was undertaken with a positive view to reaching agreement if at all possible.

## **5. Individual consultation**

### *Council policy*

*Even in cases where there is no legal obligation to consult collectively the manager (Governing Board/IEB) should still carry out a process of collective and individual consultation in order to discuss ways of avoiding redundancy.*

Details on how to conduct the consultation meeting and the suggested agenda to use are available from your HR provider.

Consultation must take place prior to any final decision being taken on the proposals for restructure/redundancies and employees should be given adequate time to respond. Any counter proposals offered either by the trade unions/professional associations or individuals should be responded to in writing. Where they are not taken on board the Governing Board/IEB must give an explanation stating the reasons why.

Following the individual consultation meeting an 'At risk of redundancy' letter will be issued to each employee identified as vulnerable as a consequence of the proposed change. The 'at risk' letter should be issued by the Governing Board/IEB in discussion with their HR provider.

## **6. Consultation periods**

### *Council policy*

*The council will apply the consultation periods as detailed below:*

- *19 or less employees affected - the council will commence a 30 day collective and individual consultation period with the employees affected.*
- *20 to 99 employees within any 90 days - the council will commence 30 days collective and individual consultation.*
- *100 or more employees affected within a period of 90 days - the council will commence a 45 day consultation period.*

These numbers relate to employees at each establishment. If the school runs independently of other schools then that school will be deemed to be one establishment. The head teacher will liaise with their HR provider to determine the appropriate consultation period.

Consultation must be undertaken with a view to reaching agreement.

There is a statutory duty on employers to notify the Department for Business Innovation and Skills if they propose to make 20 or more workers redundant at one establishment over a period of 90 days or less. For non-maintained schools, please consult your HR provider.

## **7. Close of consultation**

At the close of the consultation period the Governing Board/IEB must ensure that all representations from employees and trade unions/professional associations have been responded to in writing. The Governing Board/IEB must finalise the business case (taking into account any acceptable recommendations from the consultation process) and then notify the Director of Children's Services (or his/her representative; Councils Schools HR Team)

Where proposals have been initiated, the final agreement and sign off must be obtained from the Service Director.

Once sign off has been obtained the Governing Board/IEB must communicate the outcome of the consultation process to staff and trade unions/professional associations (giving the reasons why alternative proposals made have been rejected) and proceed to implement the structure.

## **8. Appointment to the new structure**

The following procedure should be used in order to bring about a smooth transition from an existing structure to a new structure. Its aim is to ensure a fair and consistent approach to the selection of employees in the new structure and to minimise uncertainty and disruption to all those affected.

### *Council policy*

*Throughout the period of restructuring, employees will be kept regularly informed by their headteacher of developments and stages in the recruitment and selection programme.*

Employees should be given every opportunity to discuss queries or concerns with their headteacher.

### *Council policy*

*Permanent members of staff, those on fixed term contracts with at least one year's service by the date of intended appointment and those who have been formally notified that their job is considered to be at risk will be given prior consideration in selection for permanent posts within the new structure.*

*Prior consideration for selection can only be given to employees in respect of posts on the same grade or one grade below their substantive grade.*

This is to ensure that the avoidance of redundancy will always take precedent over promotion. It is not considered appropriate for an employee to receive prior consideration for a post that is two or more grades lower than their substantive role as this is unlikely to be viewed as a reasonable alternative role.

### *Council policy*

*It may not be appropriate to advertise all posts. This is because, for certain posts, the grades of the new and existing posts may be similar in terms of salary levels, the duties may be broadly the same and there may be at least the same number of posts as potential applicants. In these circumstances an employee will be slotted in to the new position and advised of the start date of the appointment.*

As a guide, in order for 'slotting in' to take place, the essential criteria for the role must be met, with an overlap in job content of at least 70%. Please consult with your HR provider before commencing a 'slotting in' exercise.

### *Council policy*

*It may not always be possible to clearly identify the best candidate, on the basis of the above assessment. There may be more eligible candidates (once the above assessment has been carried out) than posts or the new post may be on a higher grade and require different skills. If this is the case, the new posts will be advertised internally (and possibly ring-fenced) and*

*employees will be invited to apply using an application form, which will help identify their up-to-date experience and skills. Appointments will be made in accordance with the council's recruitment and selection procedure (School's safer recruitment process).*

When a post is 'ring fenced', it will only be open to those employees who are within the 'ring fence'. The ring fence needs to be determined according to circumstance, but is normally those employees affected by a specific restructure, alongside any employee who is under notice of redundancy. Please consult with your HR provider on this matter.

Appointments will be made from the top of the new structure downwards.

## **9. Redeployment.**

### *Council Policy*

*The council will seek, wherever possible, to find permanent, alternative employment for employees commensurate with their experience, skills and abilities and where practicable at the same grade as their former position.*

Please consult with your HR Provider will be able to share appropriate resources to help facilitate this process. Up to date vacancies within schools are available on the council's web site.

### Headteacher/Governing Board/IEB's responsibilities

#### *Council Policy*

*The council expects all employees to be treated fairly and consistently and to be accepted into a vacancy if they meet the essential criteria for the post or would do so with reasonable training.*

If a recruiting Headteacher or manager does not wish to proceed with redeployment she/he will need to provide detailed written reasons to the council's HR Schools Team within two working days of the meeting or competitive interview decision.

### Offer of alternative employment

#### *Council Policy*

*Any alternative offer of employment must be made in writing and be made prior to the previous contract ending.*

The offer should include the following: Information about the job, whether it attracts the same remuneration or not, the terms and conditions that apply and whether these differ from the current job, the employee's statutory right to a four week trial period.

## **10. Trial period**

### *Council policy*

*When an employee is offered an alternative role that differs from their redundant role, the council will normally offer a four-week trial period. The four week trial period can be extended up to a maximum of three months at management (the Governing Board/IEB's) discretion.*

Should a redeployment opportunity become available within MK Council, then the following guidance applies.

The council's HR Schools Team will agree with the headteacher/new manager the details of the trial period, including: length of the trial period, arrangements for initial induction, support and training; monitoring arrangements and criteria against which the trial will be assessed.

The headteacher/new line manager will make a detailed assessment of the employee's training and development needs in relation to the new post. From that assessment a training and development plan incorporating a realistic timescale will be drawn up. This will require commitment from both the new employer and employee and will include specific job related training delivered either on or off the job as required.

The headteacher/new line manager will meet with the employee on a regular basis to monitor the employee's progress. At the end of the trial period, unless there is evidence that the employee is unsuitable, a permanent appointment will be made.

The trial period may be extended where there are justifiable reasons, including pregnancy related illness, maternity leave or some other substantial reason.

If at the end of the trial period (either four-week or extended) the council or employee has evidence that the trial period has not been successful, the individual will still be eligible to receive a redundancy payment, based on the initial date of redundancy.

If at the end of the extended trial period it is evident that the employee would meet the required standard with a further limited period of training then the headteacher must contact the council's HR specialist to discuss. Each individual situation will be handled on a case by case basis.

If at the end of the trial period an employee unreasonably refuses a suitable alternative post the right to a redundancy payment will be lost. What constitutes an 'unreasonable refusal' will ultimately be determined by the Governing Board/IEB, however in the spirit of collaboration no final decision will be made without a full discussion with the employee concerned and the receipt of advice and guidance from HR.

## **11. Temporary redeployment**

Where no permanent redeployment opportunities exist, employees should be encouraged to accept redeployment on a temporary basis, to maximise their prospects of securing permanent redeployment. In these circumstances, the redeployee should be advised of the duties to be performed, the duration of the placement (minimum four weeks, maximum three months) and the commencement date.

Such redeployment should be achieved with the agreement of the individual. Appropriate trade unions will be consulted and asked to assist in resolving any differences.

Where an individual is redeployed into a temporary post and their contract is terminated within the first year, their redundancy payment would normally be paid by the originating school. After this period, any redundancy payment falls to the new council directorate or school.

## Maternity regulations

An employee on maternity leave can lawfully be made redundant. However, those on maternity leave do have special rights, and, as a result, headteachers/line managers and recruiting managers need to exercise care in handling these redeployees. If an employee is selected for redundancy for a reason relating to their pregnancy, the birth of her child or her maternity leave, then the redundancy will be automatically unfair and will also constitute sex discrimination.

The maternity and parental leave regulations state that a woman on maternity leave or returning to work following maternity leave has an automatic right to be offered a suitable alternative vacancy over and above other staff at risk of redundancy. The terms and conditions of which must not be less favourable to her than if she had continued to be employed under the previous contract. Headteachers should discuss such a situation with the council's Schools HR Team or their HR provider.

## 12. Pay protection

### *Council policy*

*If an employee is redeployed into a post one grade lower than their old grade the council's pay protection arrangements will apply. These arrangements will operate for a maximum period of one year from the date of redeployment.*

Separate pay protection arrangements in the form of salary safeguarding exist for teachers. These are detailed in the School Teachers Pay and Conditions Document (STP and CD). For all other school based staff, the following provisions will apply.

### *Council policy*

*There will be no pay protection applied if an employee elects to apply for a post more than one grade below their old grade.*

*Pay protection arrangements are as follows:*

- *100% salary protection will be applied.*
- *No cost of living award will be applied to the protected element of salary.*
- *Pay protection will cease after one year.*

*Some employees may have a legitimate equal pay claim when comparing themselves to other employees whose posts have been evaluated as being the same JE grade as themselves but who are in receipt of additional payments under the pay protection policy. Where this can be shown to be the case to the employer, equivalent payments will be made to those employees as are made to the comparable employees in receipt of additional payments under the pay protection policy.*

*If, during the pay protection period, an employee obtains a post at their former grade then they will be placed back on their former spinal column thereby maintaining their salary level. Details of the pay protection arrangements will be contained within the contract variation which HR will issue to individuals who have been redeployed.*

Where there is protection of salary resulting from redeployment, the cost of this is borne by the originating school. It is expected that any employee on a protected salary would be

encouraged and supported by their headteacher and HR provider to seek to regain a post at their substantive grade at the earliest opportunity.

## **Redundancy Roles & Responsibilities**

### **Preparation, planning and timescale**

At the outset of the planning process, the Governing Board/IEB will need to establish a Redundancy Committee which may either comprise one or two governors to act with the headteacher or a committee of three governors. Where the headteacher is not a member of the committee s/he will still be expected to attend in order to present the case and answer questions.

The Governing Board/IEB will also need to establish an Appeal Committee, which should comprise a minimum of three governors. No governor may be a member of both committees. Please note that these hearings would normally be clerked and a formal record of the proceedings must be kept.

The surplus staffing situation at the school may involve:

- a) A unique post being declared redundant
- b) A reduction in the number of staff employed to do the same type of work (e.g. class teachers) where a selection matrix may be used
- c) A reduction in hours and/or a change in duties and responsibilities where a complete reorganisation of the structure may be advisable

The school's HR Specialist will provide further advice and guidance on the most appropriate process to follow.

Whilst the school's Governing Board/IEB has overall responsibility for the redundancy process, it is generally expected that the headteacher will lead on the following actions:

- Prepare the rationale and timeline for staff reductions
- Ensure that supporting budgetary information is set out clearly
- Formulate proposals on how the reduction might be achieved
- Suggest the most appropriate process to be followed
- Where a selection process is required, determine the posts which will be included in the selection 'pool'
- Ensure that consultation with employees and Trade Union/Association representatives takes place
- Where selection is required, complete the skills matrix with individual staff and pass the information (ensuring anonymity of the data) to the Redundancy Committee

The headteacher must ensure that all staff, including those who may be absent from work due to maternity leave and long term sickness are consulted and kept informed. (Note: It is automatically unfair to select a woman for redundancy on the grounds of her pregnancy).

Headteachers should also ensure that employees on fixed term contracts are not treated any less favourably than permanent employees under the Fixed Term Worker Directive (2002). Advice regarding this issue should be obtained from the school's HR provider (information is available in the Fixed Terms and Temporary Contracts in Schools Guidelines Jan 2008).



The role of the Redundancy Committee is to:

- Discuss and agree the proposals set out by the headteacher
- Determine appropriate selection criteria
- Agree the redundancy timetable
- Consider proposals put forward during the consultation process and formally respond
- At the end of the consultation, consider the information provided by the headteacher on the staff skills and experience summary sheet and make the final decision on which post(s) are to be declared redundant and/or who is selected for redundancy based on the agreed criteria
- The Appeal Committee will then hear any subsequent appeal(s).

In considering any reduction in staff, the governors should agree a realistic timescale for implementation. The contracts of teachers may be terminated on three fixed dates only in the year: 30 April, 31 August and 31 December.

Notice must be served by 28 February, 31 May and 31 October respectively in order to comply with statutory requirements. Contracts of employment for support staff do not limit termination to the end of a term, but in some cases there may be an entitlement of up to twelve weeks' notice. It is strongly advised that the redundancy process should begin a full two terms before the proposed date of termination.

#### **14. Selection criteria for redundancy pools**

##### *Council policy*

*Where the number of employees exceeds the number of employees required for a particular role, the council (Governing Board/IEB) will adopt a fair selection process using objective and relevant selection criteria. The criteria used will meet ACAS guidelines and are consulted upon with the trade unions. Pools of employees for selection, selection criteria and their application, will be consulted with appropriate trade unions and individual employees before their application.*

In seeking to identify the appropriate pool, the Governing Board/IEB should consider the following factors:

- The type of work the employees within the group are carrying out
- Whether other groups of employees are doing similar work
- Whether any of the jobs are interchangeable

#### **15. Selection criteria to identify individuals**

Once the group for selection has been identified the next stage is to identify the selection criteria that are applied to identify potential individual candidates for redundancy. The criteria must be objective and evidence based.

##### *Council policy*

*The council policy uses the following criteria:*

- *Skills and experience*
- *Aptitude and approach to work*

- *Standard of current work*
- *Attendance record (absences relating to an employee's disability should be discounted when using attendance as a selection criteria)*

A full explanation of the criteria and advice on how it should be applied as well as the pro-forma to complete is available from your HR provider. It is important that this is completed with reference to any current performance management record.

The setting and application of the detailed selection criteria to meet school objectives and in accordance with the criteria detailed above should be carried out by the headteacher in conjunction with the Redundancy Committee, who should seek advice from their HR provider before it is applied.

The Redundancy Selection Criteria should be completed by each employee within the selected group. A Selection for Redundancy Matrix should then be used to score each employee against each of the selection criteria. This exercise should be carried out by the headteacher, the Redundancy Committee and an HR Representative.

The scores in respect of each criterion will be added together for each individual and the totals used in deciding which employees are retained and which are made redundant. The employees with the lowest scores will be selected for compulsory redundancy. In the event of the criteria producing equal scores, then a final decision on which employee will be selected for redundancy will be made by the Redundancy Selection Committee.

Written records must be kept of the assessments for each individual employee and the reasons for the decisions.

The outcome of the Redundancy Committee's selection assessments must be given to the affected employees as soon as possible after the exercise has been completed. This feedback on the reasons for selection including the scoring should be given as part of the individual meeting with the relevant affected employee(s) by the headteacher. The employee will be given the right to be accompanied by a union/professional association representative or work colleague at the meeting. The post holder(s) will be notified in writing of the decision. Please see section 18 for information regarding the dismissal letter.

The employee will also be advised of his/her right of appeal. If the employee wishes to exercise that right, s/he should write to the headteacher setting out in full the grounds for the appeal within ten working days of the date of written notification of redundancy to the headteacher.

Information about the redundancy appeal policy and process is contained in sections 21 and 22.

## **16. Unfair selection for redundancy**

It is automatically unfair in law to select employees for redundancy because of:

- Trade union/professional association membership (or non-membership), or position as a trade union/professional association representative
- Gender, marital status, gender reassignment, race, ethnic origin, disability, age, religion and belief or sexual orientation
- Pregnancy

## **17. Dismissal**

### *Council policy*

*Individual employees will be notified about their impending redundancy at the earliest possible opportunity.*

Headteacher/The chair of governors will immediately notify the council's Schools HR Team in writing of the Redundancy Committee's determination that the employee will be dismissed on the grounds of redundancy and will issue a formal notice of dismissal to the employee within 14 days of their decision.

The letter will detail the date upon which the employee's employment with the council will terminate as well as the amount of redundancy payment to which the employee is entitled. Enclosed will be a redundancy modifications order proforma, which the employee will be required to complete and return.

## **18. Notice period**

### *Council policy*

*The amount of notice which an employee is entitled to receive is that set out in their contract of employment or the statutory period, whichever is the greater. Notice will usually have to be worked in accordance with the contract although payments in lieu of notice may be made in appropriate cases.*

For teaching and support staff the employee will receive full pay for the period of notice to which they are entitled under his/her contract of employment, or notice equating to one week for each completed year of local government service up to a maximum of 12 weeks, whichever is the greater. An employee who is not entitled to a redundancy payment is nevertheless entitled to paid notice.

For teaching and support staff, where it is not possible to serve notice sufficiently early to fulfil the contractual or statutory notice requirement, a payment in lieu of notice will be made and the employee will not be required to attend for duty during the corresponding period. Headteachers should consult with their HR Provider if they believe a case warrants this approach.

For teaching staff their contract may be terminated on three fixed dates only in the year: 30 April, 31 August and 31 December, subject to notice being issued (specifically by 28 February, 31 May and 31 October respectively) in accordance with their conditions of employment. If these specific notice dates are not met it would lead to an extended payment in lieu of notice until the end of the subsequent term. Headteachers should consult their HR Provider in these circumstances.

An employee may ask to leave the school/council's employment before the expiration of their notice period. The headteacher would normally agree to such a request providing there are no specific operational reasons for insisting that the employee works the remainder of their notice. If agreed, this will not invalidate the right to a redundancy payment.

Where there is agreement to an employee's request to leave early they will still be deemed to have been dismissed by the council but on the date the employee actually leaves, not the

original date given in the council's original notice of redundancy. In these circumstances salary would only be payable up to the date of termination.

## **19. Redundancy compensation payment**

### *Council policy*

*The following applies in instances of both compulsory and voluntary redundancy:*

*An employee who is dismissed for redundancy will be entitled to a redundancy payment providing s/he has two years or more continuous service with the recognised bodies under the Redundancy Modifications Order.*

*In summary, the elements to the calculation are age, length of service and pay. In respect of pay the council will apply the statutory weekly pay cap as set out in the Employment Rights Act 1996, which is reviewed annually (currently £538 per week). A locally agreed multiplier of 1.5 will also be applied as detailed below.*

<i>Service between ages</i>	<i>Entitlement</i>
<ul style="list-style-type: none"><li>• Up to age 21</li></ul>	<i>0.75 week's pay (with cap) for each completed year of service</i>
<ul style="list-style-type: none"><li>• 22 to 40 (inclusive)</li></ul>	<i>1.5 week's pay (with cap) for each completed year of service</i>
<ul style="list-style-type: none"><li>• 41 plus service</li></ul>	<i>2.25 week's pay (with cap) for each completed year of service</i>

*The maximum number of years' employment which can be taken into account is 20.*

Support staff employed on term time only contracts will have their weekly pay calculated by dividing their pro rata salary by the number of paid weeks.

Your HR provider will provide assistance with calculating the redundancy compensation payment.

### *Council policy*

*Any entitlement to redundancy pay may be forfeited and retained by the council should an employee be found guilty of gross misconduct at the time of a redundancy announcement or during the notice period.*

*Employees who are members of the Local Government Pension Scheme (LGPS) and have attained the age of 55 are entitled to immediate payment of unreduced pension and lump sum if early retirement is on the grounds of redundancy, subject to three months pensionable service.*

*Employees who are members of LGPS may elect to convert some or all of their lump sum compensation in excess of the statutory redundancy payment into augmented years for pension purposes; the maximum this can equate to is one third of the total redundancy payment, this election must be made before the member's last day of service.*

Further information is available from the Pensions Section at Buckinghamshire Council.

The LGPS Regulations only allow the transfer of previous pension benefits into the pension scheme within the first 12 months of joining the scheme, the employer having discretion to extend this limit. The council will consider such requests on compassionate grounds, but redundancy alone is not considered to be a legitimate reason for this.

### Employees in Teachers' Pension Scheme (TPS)

From age 55 employees who are members of the TPS may take early retirement by accepting actuarially reduced benefits (ARBs). Further information is available from the council's HR Specialist.

## 20. Voluntary redundancy

### *Council policy*

*Although not often used Voluntary Redundancy is an alternative to compulsory redundancy dismissals and may be considered. This will attract the same level of redundancy compensation as compulsory redundancy.*

Volunteers would normally be asked to indicate their willingness to be considered, without commitment, for redundancy. However the most competent employees who have the best chance of securing alternative employment tend to be the first to volunteer. There may also be more volunteers than necessary or the volunteers are from an area in which the school wishes to retain skills. There may also be quite serious morale problems if volunteers are told they cannot be released. It is therefore advisable when seeking volunteers to:

- Specify the criteria and the package on offer (this will be the same as compulsory redundancy)
- Conduct the exercise in two stages, first asking for no-commitment indicators of interest followed by discussions at which it could be established whether the individual was eligible to volunteer, and secondly by drawing up a final list of volunteers.
- Determine skill sets that cannot be lost.

In any event, in making the first announcement of a voluntary scheme, it is always advisable to stress that not everyone who volunteers can automatically be selected. There would also be no right of appeal against a decision not to grant an employee voluntary redundancy.

## 21. Appeals against selection for redundancy

### *Council policy*

*Any employee selected for redundancy will have the right to appeal against the redundancy decision, including the application of the relevant criteria. The appeal must be based on the belief that the employee feels the selection criteria have been applied unfairly in their case or that they have been wrongly included in the unit of selection (pool) or that the unit of selection has been wrongly determined.*

*The appeal should be submitted in writing normally within 10 working days of the date of the written notification of redundancy, to the headteacher.*

## **22. Redundancy appeal hearing**

Following receipt by the headteacher of the written notice of appeal, the employee will be invited to attend a hearing of the Appeal Committee and given at least ten working days' written notice of the date, time and venue. The letter should give the names of the members of the Appeal Committee, remind the employee of the right to be accompanied by a union/association representative or work colleague at the hearing, and state that representations may be made in person and/or in writing. The Director of Children's Services (or her/his representative) or your HR provider should be notified of the hearing in order for them to attend in an advisory capacity.

The clerk will ensure that all relevant documentation is sent to all parties concerned at least five working days before the date of the appeal hearing. The Appeal Hearing should be conducted as follows:

- (a) The chair of the Appeal Committee will make the necessary introductions
- (b) The headteacher or chair of the Redundancy Committee will present the case for the nomination of the employee's post for redundancy
- (c) The employee (and/or his/her representative or work colleague) and the members of the Appeal Committee may ask questions of the headteacher or chair of the Redundancy Committee
- (d) The employee (and/or his/her representative or work colleague) will present reasons why his/her post should not be nominated for redundancy
- (e) The headteacher or chair of the Redundancy Committee and the members of the Appeal Committee may ask questions of the employee (and/or his/her representative or work colleague)
- (f) The headteacher or chair of the Redundancy Committee may sum up his/her case if s/he wishes
- (g) The employee (and his/her representative or work colleague) may sum up his/her case if s/he so wishes
- (h) The chair of the Redundancy Committee, the headteacher and the employee (and his/her representative or work colleague) should withdraw from the hearing. The clerk and the Director of Children's Services (or her/his representative) or your HR provider will remain
- (i) The Appeal Committee will come to a decision
- (j) The Appeal Committee will inform the employee and the headteacher of its decision in person and subsequently in writing. The letter should state that the appeal has been properly considered and give reasons for the decision.

**NOTES:** If the headteacher does not present the case on behalf of the Redundancy Committee, s/he will attend throughout the hearing to answer questions from all parties. The committee may recall the headteacher and the employee (with his/her representative or work colleague) to clear points of uncertainty on the information which has been given, provided that both parties are recalled even if the point of uncertainty concerns the views of one party only.

## **23. Support to employees at risk of redundancy**

### *Council policy*

*As well as redeployment resources (detailed in Section 9) the council will aim to employ a number of different measures to assist employees at risk of redundancy. Access to these measures will be arranged by the school with the support of the HR provider and may include:*

### **Retraining**

To help facilitate the redeployment of an employee 'at risk' of redundancy retraining may be offered if it has been determined that there are no suitable alternative opportunities available without retraining. This training may take place prior to an individual being redeployed (i.e. to improve their chances of redeployment) into a new job or following redeployment (training specific to the role offered) into a new job or a combination of both depending on the circumstances of each individual case.

As part of this process the employee will meet with their Headteacher/HR provider to identify any particular training needs and to determine whether or not those needs can be met. At the end of the meeting a training plan should be developed clearly outlining the steps to be taken and the roles and responsibilities of the employee, headteacher and HR.

Progress during retraining must be regularly assessed by the headteacher in consultation with the employee.

Employees undergoing retraining are expected to give full commitment and have a positive attitude to the training provided and to be prepared to undertake courses to acquire the necessary skills knowledge and experience.

Employees will be entitled to receive reimbursement for any legitimate expenses incurred during retraining subject to the normal rules on expenses claims.

The employee's former school will fund the retraining costs.

### **Job search and outplacement support**

Employees at risk of redundancy can access support from the Neighbourhood Employment Programme and the National Careers Service to help individuals better equip themselves for the external job market. This will include help with producing a CV, appropriate training and assistance in identifying external job opportunities.

### **Time off to look for a new job**

#### ***Council policy***

*Employees who are advised that they have been selected for redundancy will be entitled to a reasonable amount of paid time off work to look for another job (whether internal or external) or to arrange training for future employment.*

Dates and times should be agreed with the employee's headteacher in advance. Headteachers may obtain from the employee in advance, proof of interviews/appointments. Headteachers who are unsure how to handle requests of this nature should seek advice from their HR provider.

### **Counselling services**

Counselling and other support services may be appropriate and headteachers should contact their HR provider for advice.

## **24. Data Protection**

Any data collected and processed as part of employing and managing employee's is held securely. It is accessed by, and disclosed to, individuals only for the purposes of completing that specific procedure; process or activity.

Records are retained and destroyed in accordance with the organisations Retention Schedule.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Data Protection Policy immediately. It may also constitute a disciplinary offence, which may be dealt with under the Disciplinary Procedure