

Schools' Reorganisation, Redundancy and Redeployment - Policy Guidance

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1. Introduction

- 1.1 This guidance is intended to support the Reorganisation, Redundancy and Redeployment Policy and Procedure. It provides further practical and detailed information on the application of the policy to employees within schools.
- 1.2 A toolkit of template documents and letters is also available, and, where relevant, these have been referenced within this guidance.

2. Roles and responsibilities

Governing Body

- 2.1 It is the responsibility of the Governing Body to:
- ensure that this policy and procedure has been adopted and copies are readily available to all staff and to the representatives of all recognised Trade Unions.
 - ensure that they are clear about the financial position of the school and should consider advice from e.g. Education and Skills, Financial Management Service and NYES HR before commencing formal consultation with staff and Trade Unions.
 - form Selection and Appeals Committees at the outset of the process to deal with matters of reorganisation/redundancy selection and ensure any conflicts of interest are declared when the committees are being appointed and ensure availability/attendance on the key dates agreed when mapping out the process timeline (appropriate committees). Selection Committee members need to commit to the full process from the outset (see 2.3 below).
 - delegate the implementation of the staffing review process to the Selection and Appeal Committees and agree the scope and parameters of this.
 - ensure that accurate records are kept of the decision making process and reasoning at each stage of the process.

Appointing the Committees

- 2.2 The Selection Committee and Appeal Committee should be nominated and agreed by the fully quorate Governing Body. The Governing Body will delegate authority to both committees to make decisions on its behalf before the start of a process, and as such all committee meetings should be minuted on behalf of the full Governing Body.
- 2.3 The following guidelines should be adhered to when appointing the committees:
- should have minimum of 3 non-staff members, Where it is not reasonably practical to comply with this requirement, there may be two members. However, schools may wish to consider using a

governor from another school to ensure they have a committee of three. The committee members cannot be changed once the process has begun

- consider whether any governor has any conflict of interest that would prevent them from being a member of the committee
- each committee should nominate one member as Chair
- the same governors cannot sit on both committees
- staff governors should not be on either committee
- the Headteacher should attend meetings in an advisory and information giving capacity and has a right to do so
- both committees should have an appropriate gender and ethnic mix in its panel membership, if possible
- committee members must be able to commit to the relevant meeting dates included in the reorganisation timetable.

The Governors' Selection Committee

- 2.4 The responsibilities of the Selection Committee are detailed in the Policy (paragraph 3.10).
- 2.5 If the scope of the review extends beyond that originally agreed by the Governing Body, the Selection Committee may need to return to the full Governing Body to seek approval to proceed.

The Governors' Appeals Committee

- 2.6 The Appeals Committee must have at least the same number of members as the Selection Committee. Members must not have been previously involved in the process.
- 2.7 The responsibilities of the Appeals Committee are detailed in the Policy (paragraph 3.11).

Role of the Headteacher/Project Manager

- 2.8 Whilst responsibility for implementing the staffing review is delegated to the Selection Committee, the Headteacher has an important role to support the change process and act as the project manager.
- 2.9 Where appropriate, the Headteacher may delegate some responsibilities to other school staff e.g. another member of SLT may take a lead role or office staff may support administrative functions such as issuing documentation and letters.
- 2.10 Except in circumstances where the Headteacher is directly affected by the proposals it is the responsibility of the Headteacher to:
- project manage the school reorganisation/redundancy programme
 - compile the consultation documentation and agree this with the Selection Committee

- ensure completion and agreement of the Business Case for submission and approval if financial support is being sought from the Local Authority to cover some or all of the costs of redundancy
- provide information to staff, trade unions and Governors, in liaison with the Human Resources Adviser
- ensure relevant documentation and correspondence is issued utilising the resources of the school
- provide advice to the Governors' Selection and Appeals Committees on redundancy/reorganisation selection matters.

The Local Authority

- 2.11 The Local Authority will support schools in the implementation of this policy in line with its service level agreement.
- 2.12 As the employer of staff within maintained community schools, the Local Authority has a statutory entitlement to send a representative to all proceedings relating to the selection or dismissal of any teaching staff and offer advice. If the Local Authority decides to send a representative the school must allow them to attend. This is detailed within the School Staffing (England) Regulations 2009 on which guidance is available [here](#).
- 2.13 Any advice offered by the Local Authority at these proceedings must be considered by the Governing Body (or those to whom the function has been delegated) when reaching a decision.
- 2.14 All advice offered by the Local Authority, and decisions made by the governing body in the light of that advice should be fully documented.
- 2.15 The Local Authority may provide financial assistance to cover redundancy costs in a maintained school where a financial deficit is forecast. Please see paragraph 3.6 for further information.

3. Planning

Avoiding redundancies - prior to a reorganisation/redundancy process

- 3.1 Prior to commencing a reorganisation/redundancy process the School should consider the following to try to avoid the need for compulsory redundancies:
- **natural turnover** – are any resignations pending or do any employees have retirement planned?
 - **Review temporary contractual arrangements and consider if these can be ended fairly** - staff on fixed term contracts may have employment rights and if so should not receive less favourable treatment than employees on established contracts. One course of action will not fit all circumstances and it is recommended you contact your HR provider for guidance.
 - **terminating engagement of relief staff and staff employed via agencies** – a careful examination of these arrangements should be undertaken before they are terminated to ensure no employment

rights have been accrued. It is recommended that you contact your HR provider for guidance.

- **adjustment to existing variable hours contract(s)** – where this is allowed under existing employment contracts and appropriate notice is given. This should be considered equally for all staff engaged on such contracts to avoid any claims of discrimination.
- **freeze vacancies and fill any essential vacancies from existing employees where possible.** This will not always be possible where there is a need to replace specialist knowledge, however, a creative approach is encouraged where vacancies are not automatically filled on a like-for-like basis.
- **flexible working/reduction in hours**, subject to agreement with the member of staff. Volunteers for flexible working or contract reductions can be sought and any competing requests considered on a fair basis.
- **secondment opportunities or alternative roles** within the school or retraining, subject to agreement with the member of staff.
- **voluntary redeployment or voluntary transfer** – either within the school or to other schools by agreement
- **trying to make savings in other areas**

3.2 Another way of avoiding compulsory redundancy is to invite applications for voluntary redundancy. This would usually only be considered where there is a confirmed need to make compulsory redundancies which will be following the completion of consultation (see paragraph 7.31). Any decision to accept a request for voluntary redundancy would be at the discretion of the Selection Committee.

3.3 When undertaking a review of the TLR structure, in most circumstances the same principles of the RRR policy and procedure may apply in relation to the planning, consultation and implementation stages. However, different safeguarding provisions apply to the removal or change of a TLR under the STP&CD and any appeal process would be dealt with under the school's pay policy.

Voluntary Transfer

3.4 Where a school structure is under review and redundancies are anticipated, and it is known that there are vacancies in neighbouring schools, the Headteacher may approach that school to see if voluntary transfer is an option. If staff affected by the review would like to consider this, they should discuss this with their Headteacher. There is no obligation on schools to accept staff from neighbouring schools.

Direct substitution ('bumping')

3.5 Where a school structure is under review, as a means to avoiding compulsory redundancy it may be reasonable to displace an employee in a post not at risk (including in another school), in order to retain an otherwise redundant member of staff. NYES HR should be contacted where this is being considered by the school. This will only be considered in the following circumstances:

- the displaced employee must be willing to volunteer for redundancy
- the volunteer must be skills cross-matched with the redundant post-holder
- the Headteacher/Governors at the receiving school will decide if the match is suitable in accordance with the redeployment process.
- early consultation with NYES HR is recommended.

Completing the LA business case for redundancy funding

- 3.6 Schools may submit a fully completed business case to apply for funding of redundancies prior to the start of the redundancy process. If the business case is approved, then some or all of the relevant costs associated with a redundancy (excluding pension strain costs) may be met by the Local Authority, subject to conditions set out below, through a limited lump sum budget is de-delegated for this purpose. Where a business case is not approved, any costs associated with redundancy will fall to the school budget.
- 3.7 The Local Authority no longer supports enhanced voluntary redundancy payments for teaching staff, and will only meet the compulsory redundancy element of costs of a teacher, regardless of whether the redundancy is voluntary or compulsory.
- 3.8 Schools wishing to exercise their discretion to offer an enhanced payment to teachers will have the additional costs charged to the school budget and will need to be aware of any precedence set in making such a payment.
- 3.9 For support staff the calculation of an actual week's pay continues to be used for both voluntary and compulsory redundancy payments.
- 3.10 The Local Authority will not pay any pension strain costs arising from a redundancy dismissal. Where these apply they will be charged to the school budget.
- 3.11 Each business case will be considered on its merits and in line with the Local Authority discretions in operation by a panel of Senior Local Authority Officers. Early submission of the business case to the panel is essential to determine whether the cost of resulting redundancies will receive LA support. Completed business cases to be emailed to redundancybusinesscase@northyorks.gov.uk - these can be submitted via your HR contact.
- 3.12 If the school fills the post again within 12 months of the redundancy taking effect, the cost of any redundancy pay may be charged to the school's budget. If the role is declared as redundant, there would need to be a verifiable and unforeseen change in circumstances for the school to justify re-appointing within this timeframe

4. Preparing the consultation documentation

4.1 The Headteacher/project manager will prepare the consultation document which must then be ratified by the Selection Committee. The consultation document will be shared with employees affected by the proposals and will form the basis for consultation with recognised unions.

4.2 The consultation pack will usually contain:

- statement detailing the need for the proposed changes including deployment, budget, benchmarking (comparative data) and financial information as appropriate
- actions that have already been taken to mitigate the need for re-organisation/redundancy.
- the potential impact the changes will bring about
- the staff likely to be affected (pool)
- current and proposed staffing structures including details of affected employees: job titles, employee numbers, grades, clearly indicating the proposed changes (unchanged posts, deleted posts, changed posts and new posts) the number of staff in a potential redundancy situation (pool) and any ring-fencing arrangements if applicable
- any proposed new/amended job descriptions and person specifications. Ensure any new posts have been job evaluated (support staff only) before consultation commences.
- the proposed method of selection for redundancy including proposed selection criteria/skills audits if using
- a timetable of key steps and dates including timescales for consultation and implementation and the date on which any dismissals will take effect (Toolkit - Appendix A)
- information about redeployment and other support available e.g. Employee Assistance Schemes (if applicable) to those in a compulsory redundancy situation.
- provide contact details of the person to whom written comments should be made during the consultation. Usually the Chair of the Selection Committee.
- take into account employment law considerations such as the treatment of part-time employees, those on fixed-term contracts and expectant employees/those on maternity/paternity/adoption leave
- ensure that those staff absent from school e.g. on sickness leave, maternity or paternity leave, secondments, etc. are included in the consultation process

4.3 Redundancy payments and pension strain costs can be considerable and estimates of these should be sought early within the process. Both can be requested through NYES HR, however, pension strain costs are ultimately obtained from NYPF and may take a number of weeks to obtain. As pension strain costs can be significant and will fall to the school budget, redundancy decisions should not be taken until these figures have been received. It is, therefore, essential that the costs are requested as early as possible within the process.

5. Identifying the employees affected by the proposal

5.1 The ring-fencing and pooling arrangements will depend on the nature of the restructuring process within the school. Relevant factors to be considered will include:

- the nature of the work undertaken
- those who work in a particular team
- those whose work is expected to reduce or cease
- the existing grade of the employees and the proposed grades of the new/revised posts

5.2 A pool should include all employees who carry out work of the kind which the employer no longer needs, including subordinate employees and those whose jobs are similar to the employees for whom there is a reduced need. However, if there is genuinely only one similarly qualified target for redundancy then the pool may properly consist of only one person.

5.3 Where there is a pool of one or a pool with the same number of individuals as posts to be made redundant, it is not necessary to apply criteria to their selection. However, where this approach is to be applied it must be made clear through the consultation process.

5.4 A range of assimilation methods may be considered:

Unchanged Posts – Direct Assimilation or “slotting in”

5.5 Where an employee’s post is unchanged in the new structure, and there is the same number of posts as current post holders, they should be directly assimilated into the post without the requirement to participate in a selection process. This is often referred to as ‘slotting in’.

Unchanged Posts – Reduction in the Number of Posts

5.6 Where there are unchanged posts in the new structure but there is a reduction in the number of posts versus the number of postholders, this group of staff should be ring-fenced for the posts, and a competitive selection process should take place involving the Governors’ Selection Committee. The selection process should either be via the use of the agreed selection criteria or be via a competitive interview/selection process. If an employee is unsuccessful at being appointed to a post following a competitive selection process, they would then be selected for compulsory redundancy.

Deleted Posts

5.7 Where employees’ existing posts are deleted or removed as part of the new structure, they should be ring-fenced for other appropriate posts in the structure, where applicable. If an employee is unsuccessful at being appointed to a post following ring-fencing they would be selected for compulsory redundancy. If there are no posts within the new structure to

which an employee can be ring fenced, they will be at potential risk of compulsory redundancy from the outset.

Changed Posts

5.8 Where there are changed posts within the proposed new structure, consideration will have been given when drafting the proposal for consultation as to which employees, if any, should be ring fenced for each post(s), depending upon suitability in relation to the person specification(s). Where there are equal numbers of posts to suitable employees and changes to posts are minimal, slotting in may be considered. Employees in a ring-fenced group should be invited to apply for the changed posts, and may be required to complete a preference form. Selection should be by the selection methods agreed during the consultation process.

New Posts

5.9 Where there are new posts in the structure employees should be ring-fenced to apply for the new posts, depending upon suitability in relation to the person specification(s). Selection should be by the agreed selection methods.

Ring-fencing Employees

5.10 Ring-fence eligibility must be based on:

- posts in the new structure which include areas of work within the new post(s) that the employee is currently responsible for.
- the existing grade of the employee and proposed grade of the new post. However, as the primary aim is to avoid redundancies, if an employee meets the selection criteria for a higher graded post on the revised structure and a post at an equal pay grade is not available to them then they may be eligible for ring-fencing for the higher graded post. Schools are advised to seek HR advice in this situation, as there may be others within the school who would wish to apply for such an opportunity.

5.11 There may be different levels of ring fencing, depending on the breadth of the reorganisation. In some instances, employees in ring-fenced groups will have more than one post to apply for. Where this is the case they will be given the opportunity to indicate their preferences though it may not always be possible to accommodate all preferences.

5.12 The ring-fencing selection arrangements will form part of the consultation process and will take place before consideration is given to the need for internal or external advertisement.

5.13 As soon as appointment decisions are made, the applicants must be provisionally offered the posts and asked to confirm their acceptance of

the offer, in writing. Where applicants decline their offer this must also be in writing, stating the reasons.

6. Redundancy/reorganisation during parental leave

6.1 When dealing with redundancy/reorganisation situations, managers need to ensure that all staff, including those who may be absent from work due to parental leave or other reasons, are consulted and kept informed.

- it is automatically an unfair dismissal to select an individual for redundancy on the grounds of their pregnancy but this does not prevent those who are pregnant from being selected for redundancy on any of the grounds being applied to the staff group affected.
- an employee on maternity, adoption or shared parental leave, who is given notice on the grounds of redundancy must be given priority redeployment status and offered any suitable vacancy if one is available. There is no requirement for the individual to apply for the post and will be given priority over other employees selected for redundancy.
- redundancy during maternity, paternity or adoption leave will end the contractual obligations to occupational pay and the right to return. Statutory Maternity Pay (SMP) payments, Statutory Adoption Pay (SAP) and Statutory Shared Parental Pay (ShPP) are not affected and continue until the end of the parental pay period.
- any payments made to the employee in respect of occupational maternity pay will go towards meeting the employer's obligation in respect of notice pay.
- if an employee who is pregnant, on maternity leave or on shared parental leave is dismissed they are entitled to a written statement of the reason for dismissal. This does not have to be requested by the employee.

6.2 Additional consideration should be given to employees affected by the proposal who have a disability, to ensure they are able to fully engage with the process and whether reasonable adjustments are required.

7.0 Consultation stage

7.1 There is an obligation on employers to consult staff individually and collectively on redundancy proposals. Consultation should take place "in good time" and adequate notice should be given to affected staff and recognised professional associations/trade unions of any consultation meetings. The agreed consultation periods are detailed in paragraph 4.6 of the Policy.

7.2 Depending on the nature of the proposals, on some occasions, usually where compulsory redundancies are not likely, and with the agreement of the affected staff and professional associations/trade unions, consultation does not have to last as long as the mandated period. It is recommended that such an agreement is appropriately documented.

- 7.3 The formal consultation period begins on the date that staff are formally informed of the redundancy situation, and notification is made to the Trade Unions using the section 188 letter (Appendix F, which is issued where there may be any redundancies in an individual school).
- 7.4 Recognised unions and professional associations must be given 10 working days' notice of collective consultation meetings. If shorter notice is given and they are unable to attend then it is unlikely that consultation should be meaningful. See also paragraph 7.14 below regarding union consultation.
- 7.5 Understandably, notification of a meeting to discuss potential redundancies can be worrying and unsettling for staff. Therefore, shorter notice of the staff consultation meeting will be given to employees. Staff consultation meetings generally take place during the normal working day so in most cases a day's notice is sufficient. However, the school should use its judgement to consider what is suitable notice in each particular case taking into account the availability of affected staff to attend (e.g. those working on part-time contracts, shifts or who are absent from work).
- 7.6 Consultation, communication and involvement are vital to any change process whether or not it will involve redundancies. Good practice is to ensure the matters discussed at the formal consultation meeting with staff do not come as a complete surprise to them. Therefore, the Headteacher may make a judgement as to whether it is appropriate to share some information with the staff group affected on an informal basis prior to formal consultation commencing or at least have a discussion with staff who are personally affected by the proposals.
- 7.7 Consultation may include:
- all employees who may be dismissed on the grounds of redundancy (whether voluntary or compulsory) or whose post may be affected in more than a minor way, including those on sickness/maternity/other leave (the redundancy pool)
 - those who may be indirectly affected by measures taken in connection with redundancies e.g. staff having to take on re-allocated work.
 - employees from outside the 'pool' to ascertain whether any staff wish to volunteer for redundancy so that an employee from within the pool may be substituted into the vacant post if suitable (known as 'bumping'). This may include volunteers from other North Yorkshire schools.
- 7.8 In some cases, it may be appropriate to hold separate meetings with these different groups. For example, a consultation meeting with those staff directly affected and an information sharing meeting with the wider staff group, who may not be directly affected but may be able to apply for voluntary redundancy. Please see paragraph 7.19 for further information about staff consultation.
- 7.9 Consideration should also be given to how employees may wish to receive information. Where their preference is for information to be sent to personal email addresses, written permission should be obtained to allow this happen.

- 7.10 Consultation should be timely and meaningful. The Selection Committee must consider and respond to any questions, comments or suggestions put forward by employees or union representatives and, if rejecting suggestions, give sound business reasons for doing so.
- 7.11 It is helpful to establish from the outset how the Selection Committee/ Headteacher will respond to feedback and communicate this to staff. For example, if it is a large reorganisation, it may be useful to set up a generic email and then generate a set of FAQ's in response to comments received and only respond directly to individuals, when requested. See Appendices G1, G2 and G3.
- 7.12 It is often helpful, particularly where the proposals themselves or the proposed selection criteria may be contentious, to include an interim feedback date, half-way through the formal consultation process. Getting early feedback gives an opportunity for the Selection Committee to respond to queries, provides an early indication of how the proposals are being received and of potential volunteers for redundancy. Interim feedback also provides an opportunity to make changes to the proposals in response to feedback and allows meaningful consultation to continue to the end of the formal consultation period.
- 7.13 Where this approach is adopted, it is advised that the selection committee meet midway during the consultation period to consider any comments/ feedback received from staff by that point and staff/unions should be made aware of this at the start of consultation. A meeting of this nature is good practice and can allow for changes to be made to the original proposals for consideration for the remainder of the consultation period with staff and unions. In some circumstances it may even be possible to halt the process at this point if an appropriate outcome is agreed. This can avoid delays in the process when there are significant changes to proposals following the initial consultation period and further consultation may need to be considered. In such cases, the further consultation period should be reasonable but not need to be for another 30 days.

Trade Unions meeting

- 7.14 If a trade union(s) is/are recognised there is a duty to consult collectively with all professional staff and trade unions, regardless of the schools perception about the membership of affected staff. Such consultation must only be undertaken with unions who are recognised and a list of these is available in Appendix D.
- 7.15 Unions who are not recognised must not be included in the collective consultation process. However, employees may be represented at individual consultation meetings by their union representative, regardless of whether they are recognised or not.
- 7.16 Where a redundancy/reorganisation situation has been identified the Headteacher (on behalf of the Governors' Selection Committee) should write (giving 10 working days' notice) to all the County representatives of

the recognised trade unions (only), inviting them to attend a meeting to discuss the situation (Appendix C). A representative from NYES HR will normally also attend this meeting. Usual practice is to hold the meeting immediately prior to the staff meeting, on the same day. Headteachers should include the consultation document and, *where relevant*, the following documentation with the invite letter to unions-

- financial Outturn Statement (showing the schools actual net expenditure)
- 3 year forecast - **current** year financial plan plus two subsequent years (including pupil and staffing numbers/assumptions) and indicating normal capitation funding and any additional time-limited funding
- 3 year forecast - financial forecast including **proposed** staffing changes
- curriculum plan (Secondary schools only) – existing and proposed
- class structure plan – existing and proposed
- staffing structures – existing and proposed
- draft job descriptions/person specifications for new or amended posts (job evaluated where required)
- proposed posts at risk of compulsory redundancy
- proposed ring-fence ‘pool’ for consideration of potential redundancies (including names of the affected staff)
- proposed selection criteria and method of selection e.g. skills audits, ring fencing, slotting in, interviews/assessments etc. – *if established at this stage*
- draft timetable of key dates in the process

7.17 There is a general requirement for Unions to keep the information confidential from school staff prior to the staff meeting unless advised otherwise.

7.18 Minutes of the Trade Union consultation meeting should be taken and circulated to all relevant parties.

Employee consultation

7.19 All staff potentially affected by the staffing review must be invited to a staff meeting to initiate the formal consultation process (Appendix E). This is organised by the Headteacher and usually attended by representatives of both the Selection Committee and NYES HR. This meeting is usually held directly after the initial meeting with Trade Unions to allow them to attend to support their members.

7.20 The purpose of the meeting is to:

- start the formal consultation process
- explain the situation and proposals (including current and proposed structures) and to discuss possible options/alternatives
- explain the process to be followed and associated timescales

- provide appropriate written information, including the consultation pack and FAQs (Appendix G)
 - explain the impact on staff groups or post holders and where ring-fencing applies, the proposed selection criteria and methods (if available), job descriptions, etc.
 - highlight the opportunities for staff, where applicable
 - listen to any concerns raised and to explain the consultation process, including to whom consultation responses should be sent
 - answer any immediate questions from members of staff and union representatives
 - outline the support available
 - record the start of consultation
- 7.21 Usually the consultation pack is shared with employees at the staff meeting, however, this may be done following the meeting, for example, with the letter confirming the discussion at the meeting.
- 7.22 Minutes should be kept of what was covered in the staff meeting as a record of queries raised and to ensure responses are provided as part of consultation feedback. These should be shared with all relevant parties. Written responses to the consultation from staff and unions should be addressed to the Chair of the Governors' Selection Committee.
- 7.23 Staff should also be sent a letter following the staff meeting summarising the main points that were discussed at the staff meeting (Appendix H) and offering the option of an individual consultation meeting with the Headteacher or a member of the Selection Committee. The letter must be sent to all staff affected by the proposal, including any who were unable to attend the meeting.
- 7.24 Union Representatives may want to discuss the proposals in private with their members following the consultation meeting, and rooms should be made available for this.
- 7.25 Employees who may be affected by the review are:
- entitled to explore their options on a 'without prejudice' basis
 - expected to engage in the consultation process and with the method of selection as appropriate i.e. complete a skills audit form, make expression of interest, attend relevant interview/selection processes where appropriate.
 - entitled to request confidential estimates of redundancy pay. They can do this by contacting NYES HR by phone or email.
 - entitled to make application for voluntary redundancy where it is applicable to do so, re-deployment, reduction in hours as appropriate
 - entitled to request individual meetings with the Headteacher/senior manager
- 7.26 Employees directly affected by the proposal should be offered an individual consultation meeting. This will usually be with the Headteacher

and the employee may be accompanied by a work colleague or union representative. The purpose of the meeting will be to:

- formally notify the individual that they are at risk of redundancy and to ascertain their views on the proposal
- identify individual circumstances
- discuss preferences and options for the future on a 'without prejudice' basis
- discuss redeployment and vacancies within the school/Local Authority
- highlight key skills or expertise that could be redeployed to other roles
- seek the individual's suggestions on ways to mitigate the consequences of the proposed dismissals
- seek views on the pool of staff identified at risk of redundancy
- provide an estimate of redundancy payment and notice period
- identify the employee's preferred method of communication for the duration of the redundancy process/consultation e.g. email, letter, etc.

7.27 It is recommended that a written summary of these discussions should be provided to attendees following the meeting.

7.28 Collective consultation is not viewed as a substitute for individual consultation.

End of consultation period

7.29 Following the end of the consultation period, the full Selection Committee should meet to consider any feedback and alternative suggestions from Trade Unions and staff regarding the staffing review proposal, and/or selection criteria as outlined in the consultation document. The Selection Committee will either approve the proposal or consider amendments, which may be subject to further consultation if applicable. Any volunteers should be considered at this stage and a decision made to agree or not agree to the request using the appropriate template letter (Appendices I1, I2, I3).

7.30 Once the final outcome of the consultation proposal has been approved, the Chair of the Selection Committee/Headteacher should communicate this to staff and Trade Unions (Appendix H) including confirmation of the selection pool/ring-fencing, selection, appointment process and implementation plan.

Voluntary Redundancy

- 7.31 In situations where there is a high probability that it will be necessary to make redundancies, the school may seek volunteers for redundancy during the formal consultation period:
- employees considering voluntary redundancy are entitled to request an estimate of their redundancy payment on a confidential and without prejudice basis
 - formal applications for voluntary redundancy are made to the Chair of the Selection Committee within the agreed period for volunteering. Any requests for voluntary redundancy will be given full consideration, but there is no obligation on the part of the school to accept the application. However, if governors reject an application for voluntary redundancy and, instead, proceed with compulsory redundancy they will need to have a sound business case for doing so.
 - there is no employee right of appeal against the decision not to grant voluntary redundancy
 - if a volunteer is accepted or rejected they should be notified of this in writing by the Selection Committee using the appropriate template letter and offered the right of appeal (as voluntary redundancy is still classed as a dismissal), although this is unlikely to be taken up
 - the Selection Committee will consider applications for voluntary redundancy at the end of the consultation period but prior to starting the selection and appointments stage
 - if there is more than one applicant for voluntary redundancy in a particular pool then agreed criteria should be used in order to select the applicant(s). These will be applied by the Selection Committee taking into account the skills and knowledge which the school needs to retain going forward
 - There is no difference in redundancy payment for voluntary and compulsory redundancy. Teachers will always be capped at the statutory limit of a weeks' pay, and only enhanced at the school's discretion (and cost); and support staff will always be based on the value of their actual weeks' pay
- 7.32 Volunteers may include volunteers for reduction in hours as well as for redundancy. (Employees who volunteer to reduce their hours to avoid redundancy should, where possible, be offered increased hours if they become available in the future). If there are more volunteers than redundant posts, a mechanism will be required to select volunteers. Governors may choose to apply criteria in the same way as they would for compulsory redundancy. Therefore, the employee(s) chosen will be the one(s) that will least affect the successful running of the school.
- 7.33 NYCC's LGPS Early Retirement Policy applies in cases where school based employees are made redundant and are eligible for pension release.

8. Implementation

Selection Methods

- 8.1 Prior to, or soon after, the start of consultation it is advised that the Selection Committee, advised by the Headteacher and with advice from HR, formulate the proposed selection criteria/ assessment methods that are to be used to appoint to a new structure so this information can be included in the consultation documentation to avoid delays in the process. Selection methods can include volunteers, interviews or completion of skills audits.
- 8.2 Employees can be selected for redundancy by:
- volunteering (see 7.31 above)
 - via the process of appointing to the new posts/new structure - where they are not successfully appointed to a post within the retained staffing structure
 - being selected by application of selection criteria – where the employee(s) who score lowest against the criteria will be selected for redundancy. Depending on their importance to the job role, criteria may be weighted.
- 8.3 Where there are insufficient volunteers, an additional selection method will need to be applied. Whichever approach is used, the method of selection, including any criteria and tie break criteria, must be consulted upon and ideally agreed with staff and unions. Where possible, criteria should be available for consultation at the start of the 30 days to avoid delays in the process.

Interviews

- 8.4 Staff and unions should be consulted when interviews are to be used as the chosen method of selection. The selection committee should conduct all interviews, with support from the Headteacher in an advisory capacity. Where necessary, additional advisers with specialist knowledge relevant to the roles being appointed to may support the Selection Committee.
- 8.5 In line with general recruitment good practice, the interview questions should be planned and agreed by the Selection Committee and be linked to the job description and person specification for the role. A clear scoring system should be established prior to interviews commencing and answers and scores should be clearly recorded.

Skills audits

- 8.6 Where the chosen method of selection is via the completion of a skills audit, information gathered will provide the sole source of information from which the selection committee will make their selection decision. It is therefore important that employees engage fully with these methods of selection. The Headteacher should meet with all staff involved to explain this process

- 8.7 The Headteacher should meet with all staff involved to explain this process and issue Appendix J to all affected staff.
- 8.8 Staff will be advised of a deadline for return of their completed audits and should be given sufficient time, during working time, for completion. When setting the timescale for completion the school should take into account part-time working arrangements. They will be asked to sign to confirm it is factually complete and accurate. The Headteacher will then verify the information provided and will discuss with individual staff any points of clarification. The Headteacher will then 'anonymise' the audits prior to the Selection Committee members receiving them.
- 8.9 Where it is recognised by the Headteacher that a member of staff has omitted a significant piece of information from their skills audit the Headteacher may point this out to the individual but should also ask all staff in the pool whether they also wish to add to/amend their skills audit forms.
- 8.10 Where a disagreement exists between an employee and the Headteacher as to the accuracy of a completed skills audit the Selection Committee should be made aware of the nature of the disagreement and each party should be allowed to state their case (in writing) to the Selection Committee. Like the skills audit, this additional information will be anonymised. The Selection Committee will then determine the information to be taken into account.
- 8.11 Staff unable to complete audits (this would apply only in extreme circumstances) can be assisted by the Headteacher. Late submissions will be at the discretion of the Selection Committee.
- 8.12 Template skills audit form and a scoring matrix are available (Appendix K and L).

Selection Criteria

- 8.13 Selection criteria should be designed to ensure that the employees with the most relevant skills, knowledge and experience are retained within the school. Criteria may include:
- area of responsibility
 - relevant qualifications
 - relevant skills
 - relevant experience (but avoid reference to minimum durations i.e. 3 years' experience as this may be discriminatory on the grounds of age)
 - curricular and pastoral needs of the school, with reference to the school improvement plan
 - evidence from performance appraisal
 - termination costs (see below 8.15)
- 8.14 Criteria may be weighted based on their importance to the role. Details of any weighting to be applied should be included the consultation on selection criteria.

- 8.15 The costs associated with redundancies particularly in relation to pension strain costs for support staff can be considerable. However, where there are pension strain costs there is the potential for age discrimination to arise as they only apply to older workers (those over 55 in the LGPS). The School would need to determine whether this is a proportionate means of achieving a legitimate aim and it would not be used in isolation. HR Advice should be sought when considering whether to use this criteria.

Tie Breaks

- 8.16 In the vast majority of cases, the above criteria will be sufficient to select individuals for redundancy. However, where further criteria are required to select between employees then consideration may be given to using the scores in one of the above criteria areas e.g. 'curricular and pastoral needs of the school' as the determinant i.e. the employee(s) with the lowest scores in this area would be selected for redundancy. If this fails to select between the candidates then the scoring of a second area of the set criteria may be taken into consideration e.g. the scores given to both candidates for 'relevant skills'
- 8.17 In the highly unlikely event of it still not being possible to make a selection for redundancy based on the above criteria then the Selection Committee will use a predetermined 'tie break' criterion in order to conclude the process. A pre-determined tie break may be attendance, capability or disciplinary, but advice should be sought from HR. Where selection criteria regarding misconduct, capability and attendance are used only current procedures or live warnings should be taken into consideration. Absence arising as a result of a disability or parental leave should be disregarded as this will potentially be discriminatory.

Notification of the appointment decision(s)

- 8.18 The Selection Committee will determine which employees will be selected for redundancy and/or appointed to the revised structure through the agreed selection process i.e. volunteers, interviews or skills audit. Decisions at this point will be provisional pending the receipt of any appeals.
- 8.19 As a minimum, those selected for redundancy or not appointed to a post redundancy will be invited to a meeting with one or more members of the Selection Committee. The Headteacher may also be in attendance. At the meeting the employee will be notified that they have been selected for redundancy, the reason for their selection and informed of their right to make representations and/or appeal.
- 8.20 At the meeting, detail regarding the individual's score in the skills audit or interview process should be shared, to enable them to decide if they wish to make representations or appeal against the decision. Only information regarding that individual can be shared and the scores of other employees must be kept confidential. However, it is acceptable to inform the employee where they ranked within the pool e.g. of the pool of 5 employees their score was the lowest.

- 8.21 The purpose of the meeting is to clearly explain to the employee why they have been selected following the agreed and communicated process. The provision of accurate and detailed information at this stage can reduce the need for appeals.
- 8.22 Employees will also be notified at the meeting that they will be served formal notice of redundancy from the Local Authority and the arrangements for redeployment.
- 8.23 The discussions at the meeting will be confirmed in writing to all parties present.
- 8.24 Those who have been appointed to the new structure or who have not been selected will also receive verbal notification of this decision and this will be confirmed in writing. Any offers of appointment or retention at this stage will be provisional based on the completion of the reorganisation / redundancy process and any appeals.

9. Representations

- 9.1 Following communication of the outcome of the redundancy selection process, affected employees will be afforded the opportunity to make written representations to the Selection Committee where they believe that there has been a fault in the selection process. This may include, for example, situations where they believe that important information has not been included in their skills audit or a mistake has been made in calculating their final score.
- 9.2 The purpose of the representations process is to allow factual errors or mistakes, relating to an individual, to be rectified prior to formal notices of dismissal being issued. It is not intended to deal with issues such as the employee's perception around the fairness of their selection, which can be considered as a formal appeal.
- 9.3 Employees will usually be given up to 5 working days to submit any written representations. In their submission, they should provide a clear and detailed explanation of their concern to enable it to be given full consideration. Depending on the particular issues raised, the Selection Committee may respond to the representations in writing or arrange a meeting with the employee and their representative. Where a meeting is arranged, this will usually be with one member of the Selection Committee and the Headteacher may attend in an advisory capacity. The outcome of any meeting will be confirmed in writing to the employee within 5 working days.
- 9.4 Where the Selection Committee amend their decision(s) as a result of the representations process, it may be necessary to revisit some or all of the selection process and the provisional offers made to other staff.
- 9.5 Ideally, representations should be dealt with prior to the formal notices being served. It is therefore, important to ensure that sufficient time is built

into the redundancy timetable to enable these to be dealt with. A notice of dismissal cannot be withdrawn unilaterally so it is preferable that such issues are dealt with before notice is served.

10. Appeals

10.1 Employees who are selected for redundancy:

- have the right to appeal against the decision of the Selection Committee to the Appeals Committee.
- have the right to be represented by a Trade Union representative or work colleague at the appeal hearing.

10.2 The employee must set out, in writing, the specific details of the grounds for appeal. This must be done within 10 working days of the date of receipt of the letter from the school confirming their selection for redundancy. Where the employee has submitted written representations, their appeal must be submitted within 10 working days of written notification of the outcome of that process, whichever is later.

10.3 Ideally appeals will be heard before formal notice of redundancy is served, however, timescales do not always allow for this. Where notice has been served, a successful appeal has the effect of removing the dismissal so the notice can be disregarded and employment will continue uninterrupted.

10.4 Where an appeal is successful, it may become necessary to revisit some or all of the redundancy process, including provisional offers made to other employees. In such cases, some stages of the process may need to be undertaken again and it is possible that the implementation date will need to be delayed for some or all affected employees. Further consultation with unions may also be required. HR advice is recommended following a successful appeal.

Notice of Appeal Hearing

10.5 Employees will be given as much notice time as possible of the date of the appeal hearing, (Appendix N), but as a minimum 5 consecutive working days. Working days only includes days when school would normally be open and not for example school closure because of holidays. This date would normally have been set out in the timetable.

10.6 Employees are required to confirm attendance and the name and status of their representative as appropriate. If the employee's chosen representative is unavailable to attend at the time of the proposed hearing, and the employee proposes an alternative time that is reasonable and falls before the end of the period of five working days after the original hearing date, the employer must postpone the hearing to the time proposed by the employee (ERA 1999, section 10) or a similar mutually agreed time and date. An HR representative may also be present to provide advice to the Committee.

- 10.7 The Chair of the Selection Committee will attend the hearing to present the case against appeal and explain how the selection decisions were made.
- 10.8 The outcome of the appeal hearing must be put in writing to the employee. Template letters and Order of proceedings for appeal hearings can be found at Appendices Q & O.
- 10.9 Where a proposal/decision is reversed by the Appeals Committee then careful thought (along with HR Advice) will need to be given as to how to proceed. It may be necessary for the process to be completely re-started. Further consultation with the trade unions should take place.

11. Notifying the Local Authority

- 11.1 Before notifying the LA of any redundancies, governors should ensure that employees affected have been notified of the decision and made aware of their right to appeal. Formal notification to the LA should be made through NYES HR.
- 11.2 The LA will issue notice within 14 days for maintained community schools as it is the ultimate employer of staff.

Notice periods

- 11.3 The statutory notice period for teaching and support staff is one week for every year of continuous service up to a maximum of 12 weeks.

Period of continuous service	Minimum notice period
1 month or more but less than 2 years	1 week
2 years or more but less than 12 years	1 week for every year of continuous service
12 years or more	12 weeks

Whichever is the longer of the statutory or contractual notice period must be given.

Staff group	Notice period (contractual)
Teaching staff (2 months - but 3 months in the Summer term)	31 October for redundancy at 31 December 28/29 February for redundancy at 30 April 31 May for redundancy at 31 August
Headteachers (3 months – but 4 months in the Summer term)	30 September for redundancy at 31 December 31 January for redundancy at 30 April 30 April for redundancy at 31 August
Support staff	Stated in individual contracts (not bound by term dates)

12. Redeployment

Purpose and Principles

- 12.1 If staff are selected for redundancy they will be provided with guidance, information and support to find suitable alternative employment. The school and the Local Authority (Resourcing Solutions Team) will provide support through this process.
- 12.2 Successfully redeploying staff retains the skills, knowledge and experience of staff within the school and also removes the need for the School or Local Authority to pay redundancy and pension strain costs.
- 12.3 It must be recognised, however, that under Local Management of Schools legislation, each Governing Body is responsible for the employment of its own school's staff. The Authority can only recommend that individuals be considered for vacant posts and cannot place staff into schools.
- 12.4 Successfully redeploying staff retains the skills, knowledge and experience of staff within the school and also removes the need for the School to pay redundancy and pension strain costs.
- 12.5 Vacancies for potential redeployment may be found on the NYCC website: <https://www.northyorks.gov.uk/jobs-and-careers>
- 12.6 During the notice period, the school will inform staff of any suitable vacancies within the school that arise before their termination date. Where an employee who has been nominated as redundant appears to be suitable they will be considered in the first instance prior to any other candidates wherever the minimum requirements of the person specification are met or where it is possible to demonstrate they would be met, with training, within a 3 month period.
- 12.7 It is a requirement that both employer and employee fully participate in the process and are able to demonstrate reasons if redeployment has been unsuccessful.
- 12.8 Redeployment may be sought in accordance with this guidance when staff are under notice of redundancy or where it is clear at the outset there is likely to be no post for them at the end of the restructure.

Suitable alternative employment

- 12.9 The factors which will be used to determine if a post constitutes suitable alternative employment are detailed at paragraph 10.3 of the Policy. Further detail for some factors is provided below:

Pay	For support staff, the school has the discretion to protect earnings for a time limited period (maximum 1 year) against a significant fall in the current rate of pay. If applied this is normally payable by the school.
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Status / grade	Where possible employees should be redeployed to a similar post with the same status and grade.
Location	Consider the degree of disruption likely to be caused by a change in location, taking into account the individual's personal circumstances and additional expense and travelling time incurred
Working environment	This may be an issue for those who may have a disability or health complaint
Hours of work	Should be similar, where possible, and take account of the individual's circumstances if they are increased / decreased.

Employees' and Schools' rights and responsibilities

12.10 **Employees** who are eligible for redeployment are expected to:

- contact NYCC Resourcing Solutions to register on the NYCC Redeployment Talent Pool
- keep a record of posts they have applied for and the outcomes;
- be able to provide reasons for not pursuing, or accepting offers of, redeployment.

12.11 **Schools** are required to give employees who are eligible for redeployment:

- reasonable paid time off to meet with their Trade Union representative;
- reasonable paid time off for interviews and to look for work (legal minimum of 40% of one week's work i.e. 2 working days during the notice period for a full-time employee);
- access to the Health Assured employee assistance programme.

Redeployment process

12.12 The stages in the redeployment process are as follows:

- In order to seek redeployment employees must register on the NYCC Redeployment Talent Pool. To register, they email resourcingsolutions@northyorks.gov.uk and the Resourcing Solutions team will provide them with the required information to complete the registration and guide them through the process. The email address they use to contact Resourcing Solutions will be registered and used to correspond with them for redeployment purposes. Employees may use a personal email account if they wish. It is important that employees register on the talent pool as soon as possible to maximise any redeployment opportunities.
- where an employee meets the essential criteria of a NYCC vacancy they must apply directly and the recruiting manager will shortlist accordingly.
- if more than one redeployee is suitable, all should be considered in accordance with the normal selection procedure for the post.
- if, following interview the employee and recruiting school agree the post as suitable, a formal offer subject to trial period should be made in writing.

- following an interview the school should notify NYES HR of the outcome.
- if the employee does not consider the post as suitable, pre or post interview, they must submit their reasons in writing to NYES HR.
- where redeployment is being considered to a lower graded level, the individual and school should contact NYES HR for further details of the implications for the employee and school. Payment protection does not apply to employees redeployed between or from schools unless in exceptional circumstances and where agreed with the school the employee is joining prior to the alternative post being accepted.
- an employee selected for compulsory redundancy or accepted for voluntary redundancy will not be entitled to a redundancy payment if they are offered and accept employment with the Authority or an associated employer (as defined by the Local Government Modification Order) before their existing contract ends, to commence within 4 weeks of their existing contract ending. In these circumstances, the new employment would be regarded as continuous service.

Refusal of alternative employment

12.13 Employees who unreasonably refuse an offer of suitable alternative employment will lose their entitlement to redundancy pay.

12.14 Where an employee indicates that they do not feel that the offer of a changed or new post constitutes suitable alternative employment a discussion will take place between the employee, the Headteacher and a representative of HR. The employee may seek trade union advice prior to the meeting and may be accompanied, if they wish. Where an offer of suitable alternative employment is declined and no other suitable posts are available, the employee will be given notice to terminate their post. **If an employee unreasonably refuses an offer of suitable alternative employment they will lose their entitlement to redundancy pay.** Reasonableness of a refusal will include consideration of an employee's individual circumstances connected with pay, status, travel and duties of the post concerned.

Trial Periods

12.15 Where alternative employment is taken up the individual is entitled to a minimum 4 week trial period in the new post (the time period can be extended for up to a total of 3 months for training purposes only, provided this is agreed in advance of the new post starting and is recorded in writing). An induction plan should be produced detailing any agreed support and development activities.

12.16 Either the employer or the employee can end the employment during or at the end of the trial period if they deem it unsuitable. If the employee unreasonably rejects the new post (or works in it beyond the end of the trial period) a redundancy payment will not be made. HR advice should be sought in these circumstances.

13. Redundancy payments

Entitlement

- 13.1 Redundancy payments apply to teaching and support staff who have at least two years' continuous Local Government service at the date of termination. This service may be as a result of an established contract, a number of continuous fixed term contracts or may result from an employee's earlier unbroken service with an associated employer under the Local Government Modification Order. This includes all maintained schools and Academies. Independent schools are not covered by the modification order.
- 13.2 Redundancy pay is calculated as outlined below and each redundant employee must be given a written statement showing how the calculation was made, which will normally be provided by NYES HR on behalf of the Local Authority.
- 13.3 There will be no monetary difference whether a member of staff leaves on a voluntary or compulsory redundancy basis. In either event, support staff calculation will be based on 'actual' weeks' pay, whereas teaching staff will have the statutory limit applied.

Support Staff Pay Calculation

- 13.4 Starting from the date of redundancy and counting backwards, for each completed year of service, redundancy pay is calculated as follows: -

For each completed year up to the age of 21 – 0.5 week's pay for each completed year of service
For each completed year aged between 22 – 40 years of age – 1 week's pay for each completed year of service
For each completed year aged 41+ years of age – 1.5 weeks' pay for each completed year of service

- 13.5 A maximum of the last 20 years service is taken into account in all redundancy payments
- the payment is calculated on the basis of a week's pay, the employee's age and length of service.
 - the Authority disregards the statutory limit on a week's pay in calculating support staff redundancy pay.
 - the first £30,000 of a Redundancy Payment is normally paid free of tax.
- 13.6 When calculating redundancy payments for support staff NYCC will use the employee's actual weekly pay plus the applicable employer pension contribution rate, where the total does not exceed the statutory weekly capped amount. Where these combined payments exceed the statutory weekly capped amount the higher of actual weekly pay or the statutory

weekly amount will be used. These entitlements will be applied to part-time staff on a pro rata basis.

Teaching Staff Redundancy Pay

13.7 For teaching staff the calculation is based on that detailed in 13.4, but with the application of the statutory limit on a week's pay. This amount increases annually and is available here [Redundancy: your rights: Redundancy pay - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/redundancy-pay).

14. Pension benefits

Support Staff

14.1 Under current regulations, support staff who are over the age of 55 and have 2 years' qualifying service, are entitled to receive release of their unreduced pension benefits if they are dismissed on the grounds of redundancy.

14.2 Pension strain payments can be substantial **and the school will be required to meet the full cost in relation to this**. NYES HR can arrange for pension strain estimates to be provided to the Selection Committee on request prior to any final decision being made. Estimates are requested from the Pension Fund (NYPF) and can take a while to be returned. Schools are urged to request these early to ensure that any proposals are based on full understanding of the financial implications.

14.3 Support staff who are members of the LGPS can log on to their online account on <https://www.nypf.org.uk/index.shtml> to obtain their own pension fund estimates.

Teaching Staff

14.4 It is not NYCC policy to grant premature, unreduced retirement benefits when members of the Teachers' Pension Scheme are made redundant. Members of the Teachers' Pension Scheme should contact Capita Teachers' Pensions directly on 0845 6066166 or www.teacherspensions.co.uk for information on the effect of redundancy on their pension entitlements and the options available to them. For example - Employees aged 55 or over may be able to apply to access actuarially reduced benefits if they satisfy the criteria.