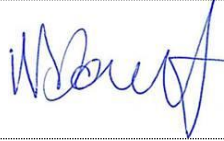




Change and Redundancy Model Policy & Procedure

November 2018

Signed (Chair Trustees):	
Date:	November 2018
Date of Review:	November 2019

The Arbor Academy Trust reviews this policy annually. The Trustees may, however, review the policy earlier than this, if the Government introduces new regulations, or if the Trust receives recommendations on how the policy might be improved. This document is also available in other formats e.g. e-mail and enlarged print version, on request to the School Offices and is displayed on the schools' websites.

CONTENTS	PAGE
INTRODUCTION	4
1 Scope	4
2 Principles	4
3 Definition of Redundancy and Contractual Rights	5
4 Procedure	5
4.1 Identifying the Organisational Change	5
4.2 Strategies for Avoiding Compulsory Redundancies	6
4.3 Consultation and Communication of Organisational Change	6
5 Voluntary Redundancy	8
6 Appointing to the New Structure	9
7 Compulsory Redundancy	10
8 Redeployment	12
9 Redundancy Benefits	14
10 Pensions	16

Appendices

Appendix 1 – Redundancy Authorisation Form

Appendix 2 – Restructure Proposal

Appendix 2a – Equalities Impact

Appendix 2b – Health & Safety Impact

Appendix 3 – Guidance on Implementing school reorganisation

Appendix 4 – Guidance on preparing job description and person specification

Appendix 5 – First individual consultation

Appendix 6 – First ICM notes

Appendix 7 – ICM Record Form

Appendix 8 – Script for staff briefings

Appendix 9 – Alternative Proposal feedback form

Appendix 10 – Consultation Feedback, Questions and further information form

Appendix 11 – HR briefing record form

Appendix 12 – Confirmation of ICM provisional offer of assimilation letter

Appendix 13 – Confirmation of ICM referral to closed ringfence letter

Appendix 14 – Confirmation of ICM to open ringfence letter

Appendix 15 – Ring Fenced Application Form

Appendix 16 – Confirmation of ICM notice & referral to redeployment letter

Appendix 17 – Restructure appeal letter

Appendix 18 – Appeal Form

Appendix 19 – Redeployment Form

Appendix 20 – Withdrawal of notice letter

Appendix 21 – Re-organisation Report

INTRODUCTION

Staff are the most important resource in any school and effective management of those staff is critical to the quality of service provided to the young people of Waltham Forest.

Careful forward planning by the Trust Board and Local Governing Body members of the School will ensure as far as possible continuity of employment for its employees. However, it is recognised that there may be external factors which necessitate an adjustment in staff levels.

Schools need to be able to respond to changes in requirements such as those brought about by changing pupil numbers, reductions in budgetary provision or changes in curriculum emphasis which may result in a reduction of staff from time to time.

It is the responsibility of the Trust Board and Local Governing Body members, to manage an organisation change process and consider all options available to avoid compulsory redundancies. This policy sets out how the School will manage such organisational change.

1 SCOPE

This policy applies to all teaching and support staff, regardless of grade or position, hours worked per week or whether the contract is permanent, temporary or fixed term. *Where this policy refers to the 'Head teacher, and the Head of Teacher's post is identified in the organisation change proposal as being one at risk of potential redundancy, 'Chair of Governors' should replace 'Headteacher'.*

2 PRINCIPLES

- 2.1 In the application of the policy, the Trust Board and Local Governing Body members will ensure that all staff are dealt with fairly and equitably regardless of status. No employee will receive less favourable treatment or be discriminated against or victimised for any reason.
- 2.2 Consultation will take place with both staff and recognised unions at Local Authority Level (see process flowchart on page 19) at the earliest possible stage in this procedure with a view to reaching agreement to avoiding compulsory redundancies. Compulsory Redundancy will only be used after all other reasonable alternatives have been considered.
- 2.3 Staff will be informed of their right to be accompanied by a trade union representative or a work colleague throughout this process.
- 2.4 Fair selection procedures will be used if redundancy becomes necessary, in accordance with an agreed selection criteria formally adopted by the Trust Board. (4.4.2)
- 2.5 All employees selected for redundancy will have the right to appeal against such a decision and should use the appeals mechanism contained in this policy.
- 2.6 Every effort will be made to redeploy staff who have been selected for redundancy.
- 2.7 All those involved in carrying out the redundancy selection process will do so with sensitivity.
- 2.8 All staff will be offered counselling through the Council's Workplace Options Counselling Service throughout the organisational change process.

3 DEFINITION OF REDUNDANCY & CONTRACTUAL RIGHTS

3.1

An employee is redundant if the employer has:

- closed or intends to close the school where the employee is employed.
- ceased or intends to cease the particular kind of work for which the employee is employed, or if the employer intends to,
- reduce the number of posts in the school establishment.

n.b. this is not an exhaustive list

3.2 An employee, dismissed by reason of redundancy, will be entitled to claim statutory redundancy payment if he/she has two years qualifying continuous employment at the effective date of termination. (See Section 6)

3.3 The following steps should be taken, to comply with best practice, if an employer is intending dismissing an employee on the grounds of redundancy:

Step 1 – Write to the employee to discuss the redundancy and invite them to a meeting.

Step 2 – Hold a meeting with the employee (at which he/she has the right to be accompanied).
Notify the employee of the decision and the right to appeal.

Step 3 – Hold an appeal meeting (if the employee wishes to appeal) at which the employee has the right to be accompanied – and inform the employee of the decision).

3.4 A redundancy dismissal is no different from any other dismissal in that an employee will be entitled to the contractual period of notice or will be given a payment in lieu of notice comprising salary and other contractual benefits.

3.5 Employees with one year's qualifying service prior to 6th April 2012 have the right to raise claims of unfair dismissal as a result of unfair selection for redundancy with an Employment Tribunal. For employee's starting after the 6th April 2012 these individuals have to have two year's qualifying service to raise a claim of unfair dismissal claim. A claim may be made by employees and/or their trade unions.

4 PROCEDURE

4.1 Identifying the Organisational Change and Potential Redundancies

The Head teacher will identify the reason for the proposed change and will gather all the relevant information to determine the requirements to the change of service including those at risk of redundancy. A written report should be submitted for approval by the Trust Board and the Local Governing Body members, which sets out:

- a clear rationale for the proposed change.
- the posts potentially affected by the proposal.
- the proposals for managing the change.
- the timescales involved.

The report should include, but is not limited to, the following paperwork:

- Budget statement and budget out-turns.
- Current staffing structure.
- Proposed staffing structure.
- Job descriptions for any proposed new posts.
- Pupil forecasts/curriculum changes.
- Suggested strategies to avoid compulsory redundancies.

(The Restructure proposal document (Appendix 2), Equalities Impact (Appendix 2a) and Health & Safety Impact Analysis (Appendix 2b) should be completed to include the above information).

- 4.1.2 Governors are expected to seek professional advice and support from their traded HR provider in the formulation of the proposal. Where HR support is required through the organisation review process this should also be provided by traded HR.
- 4.1.3 The Head teacher will forward the completed restructure proposal document to the Head teacher HR or alternative HR provider and receive advice from the appropriate local authority advisers if the school choose to purchase a HR service from the local (e.g. Human Resources, Finance, as necessary).
- 4.1.4 The Trust Board is advised to delegate responsibility to the Local Governing Body members of the school, or other appropriate elected committee for implementing the procedure, consisting of one Trust Board member and two Local Governing Body members. During the process the Head teacher will provide advice and guidance to both the committee and the staff.
- 4.1.5 The Trust Board will also establish an Appeals Committee (excluding any trust members and governors previously involved) consisting of three Trust Board members.

4.2 Strategies for Avoiding Compulsory Redundancies

The Trust Board/ Local Governing Body members, after consultation with staff and their trade unions (4.3) will consider the following options in order to avoid compulsory redundancies:

- cessation of recruitment and/or termination of temporary contracts of less than one year.
- assimilation – slotting in employees to a new post where the post is substantially unchanged.
- redeployment.
(see section 5)
- natural wastage.
- voluntary early retirement/phased retirement/stepping down.
- release of supply/agency staff.
- voluntary job share or part-time working.
- voluntary redundancy.

4.3 Consultation and Communication of Organisational Change

The purpose of consultation is to provide as early an opportunity as practicable for all concerned to share the problem and explore the options. Consultation should begin in good time and be completed before any redundancy notices are issued. Consultation should continue throughout the process with the aim of reaching agreement.

4.3.1 Consultation Periods

Nature of Change	Minimum Consultation Period
1-19 employees at risk of redundancy	21 calendar days
20 – 99 employees at risk of redundancy	30 calendar days
100 plus employees at risk of redundancy	45 calendar days
Changes to job descriptions and/or reporting lines	21 calendar days
Additions or changes to reporting lines.	21 calendar days.
Deletion of vacant posts*	consultation as required

* If a post has been vacant for more than a year no consultation is required.

The Traded HR Service will give the required notice of consultation, if appropriate, to the Secretary of State, on behalf of the School.

4.3.2 Trust members and Local Governing Body members and Head teacher will recognise the length of time needed to complete the redundancy process. For example, in a normal school planning cycle, the Trust Board will start the process at the beginning of the Spring Term (January) to enable notices for teachers to be given by 31 May to take effect on 31 August (ie the normal contractual date for departure). The termination dates for support staff are not restricted to the ends of term.

4.3.3 It is a legal requirement for formal consultation to take place with Trade Unions and staff if there are 20 or more potential redundancies. **However, this policy will be applied where there is a potential redundancy situation for any number of staff.**

4.3.4 **Formal Consultation Meeting with Staff and Unions**

The Head **teacher**, on behalf of the Trust Board should invite all staff who are likely to be affected to attend a meeting. (Consideration should be given to the impact on the whole school workforce before consultation begins and the meeting should not necessarily be limited to those staff who are likely to be directly affected)(see appendix 8 for guidance on briefing staff at consultation meeting). Information in writing will be given to union representatives in advance of the meeting ideally 5 working days. This will remain private and confidential to allow the trade union representatives to prepare for the meeting. Consideration should be given for union representatives to have a meeting with the Head teacher & HR prior to the staff consultation meeting. Any affected employee or trade union representative not able to attend the meeting will receive a copy of the proposal. It is recommended that a HR Adviser will attend the consultation meeting to advise Governors.

(Prior to this formal meeting, it will be desirable for the Head teacher to communicate to staff directly or indirectly affected to inform them that formal consultation will be happening in the near future.)

4.3.5 The purpose of this consultation meeting is to present the written case for and proposed solution to the organisation change, to enable employees who may be affected and their representatives, to:

- understand the facts, and
- discuss the alternative solutions that have been explored.
- make any initial representations they wish to present relating to the proposal.

(Consultation feedback alternative proposal form appendix 9 and consultation feedback questions appendix 10)

4.3.6 The trade union representative(s) will have the opportunity to meet with their members immediately after the meeting.

4.3.7 The Head teacher or other appropriate person shall hold one to one meetings for affected staff to discuss the proposals and listen to their views (see guidance for holding one to one meetings at appendix 3 and record of consultation meeting template at appendix 6). It is the decision of the employee as to whether they wish to attend and if they want to be accompanied by a work place colleague or a trade union representative.

- 4.3.8 The trade unions and staff affected must be given a reasonable time in which to respond during the consultation process. The Committee or other appropriate elected committee must consider any representations made by the trade unions and respond formally in writing, giving a reason for any representation not accepted.

5.0 Voluntary Redundancy

Voluntary redundancy can be offered as a way of mitigating a compulsory redundancy but will not always be possible. During the process of seeking applications for voluntary redundancy, the Trust Board should ensure that it is made available to those directly affected by the changes and that:

- Staff are made aware that there is no automatic entitlement to redundancy/early retirement benefits. Whilst every effort would be made to accept volunteers to avoid compulsory redundancy, the needs of the school should be given priority.
- The timescale for receiving applications takes into account time required for potential volunteers to seek advice and information on their redundancy/early retirement benefits.

6.0 Appointing to the new structure

For the purposes of managing the changes required across the School, the following processes will apply.

Providing the requirement for suitable skills, behaviours, experience and performance can be met, all posts will be filled by one of the following methods prior to any external recruitment activity:

Assimilation – matching employees with posts where the post is broadly similar to the current role, with no material differences plus a match of 70% (within one grade up or down for support staff).

Closed Ring fencing – This occurs when grouping employees who all undertake posts where the post is broadly similar to the current role with no material differences, i.e. this applies to those who would normally assimilate to a post but where there are fewer posts available than the number of staff eligible. (within one grade up or down for support staff). All staff within the affected group should be interviewed and the position will be filled from the affected group. Ring-fencing may be applied during restructuring when;

- there are fewer jobs within the new structure for the affected group

The following criteria will apply in determining the closed ring-fence group of employees.

- Employees will be ring-fenced to posts where there is a broad similarity of job duties between the job in the old and the new structure;
- Employees will be ring-fenced where it is likely that there is a substantial match of the employee's skills and experience to the job, i.e. the redeployee meets the essential requirements of the job specification; and
- Employees in the ring-fence group will normally be on the same grade as the vacant job or within one grade up or down.

Open ring-fence – grouping employees who currently undertake posts of a similar nature to the new posts but where there are significant or material differences.

Redeployment – giving employees under notice of redundancy an opportunity to apply for

suitable, alternative posts in advance of other applicants.

Recruitment following open internal competition within the School – where there are no employees who meet the categories above, or when all of the above processes have been concluded posts will be internally advertised. The normal recruitment and selection process will apply.

(Confirmation letter of individual consultation meeting appendix 12, 13, 14, and application form for ring fenced interviews appendix 15).

7.0 Compulsory Redundancy

Once the above procedures have been exhausted any individual who is still displaced will therefore be declared redundant.

7.1 Whatever selection criteria are chosen, care needs to be taken to ensure that they are neither directly nor indirectly discriminatory on grounds of race, sex, disability, sexual orientation, age or religion or belief, or being a trade union member.

7.2 When an individual is pregnant and on maternity leave Schools must prioritise employees who are under notice of redundancy for offers of suitable alternative employment where these exist. They do not need to apply for roles. These employees must be treated *more favourably* during their redundancy notice period than any other redundant employees, even those who are better qualified. A failure to meet this obligation could result in the dismissal being automatically unfair as well as being unlawful discrimination.

Where ever possible schools should ensure individuals who are pregnant or on maternity leave are given suitable alternative employment. However, if there are no suitable alternative vacancies, an employee may be made redundant during or after maternity leave providing:

- There is a genuine redundancy situation.
- There is no suitable alternative work available within the school.
- Redeployment has been considered.
- The correct procedures have been followed

7.3 Where using criteria related to skills, knowledge and experience it would be reasonable to use work related competency testing and or other measures of skills and knowledge such as interviews to determine selection.

7.4 Following the selection process, feedback should be given to staff, and an opportunity to raise questions on the selection panel's decision.

7.5 Notification to Staff Being made Redundant

7.5.1 Notice of Dismissal

If, after giving due consideration to the employee's representation, there are no apparent alternatives to redundancy and the decision is made to dismiss on the grounds of redundancy, the employee will be notified at a meeting which is then confirmed in writing. The letter should state:

- clear details of the termination date in accordance with their contractual entitlement.
- terms of redundancy and entitlements to redundancy pay.
- details of any payments in lieu of notice, payments for outstanding holiday pay.
- rights to reasonable time off to attend interviews.
- the right of appeal and the appeal process.

7.5.2 The redundancy notice period is the time between the date when an employee received his formal notice of termination and the date on which his employment is to be terminated. These dates will be made clear during the meeting with the employee and/or in the termination letter. (termination letter appendix 16)

7.5.3 Throughout the notice period discussions will continue between the employee and management regarding the redundancy situation. Efforts will continue to redeploy the employee up until the date of dismissal.

7.5.4 If suitable alternative employment is offered to the employee which is not accepted, the employee will not be entitled to a redundancy payment.

7.6 Appeal

An employee has the right of Appeal against dismissal to the Trust Board Appeals Panel, which will comprise of three Trust Board members. Where the matter being appealed against relates in the main part to a decision of the Governing Body members, if possible the appeal body will consist of Trust members who were not involved in the original decision.

7.6.1 The employee must provide written grounds of their appeal **within five working days** of the receipt of the letter from the Panel confirming the notification for redundancy. The grounds must set out the reasons for the appeal (appeal form appendix 17). The notice of appeal should be addressed to the Chair of Trust Board.

7.6.2 The appeal hearing, where possible, should be held **within 10 days working days** of receipt of the employee's appeal, other than in exceptional circumstances when the parties may agree a later date (no more than ten calendar days after the date originally proposed). If the employee and/or their representative do not attend the rescheduled meetings, then it may be held in their absence.(appeal invite appendix 18)

7.6.3 The employee has the right to be accompanied by a trade union representative or work colleague. The panel will be supported by an HR Adviser and a representative from the LA HR may also attend. The Chair of the Committee or other appropriate elected committee, which reached the decision, shall present the management case.

7.6.4 The employee will receive written notification of the appeal outcome **within five working days**. The decision of the Appeal Panel is final.

7.6.5 The possible outcomes of an appeal are:

- Appeal rejected and no change to the decision to dismiss on the grounds of redundancy.
- Appeal successful, in which case the governors may have to return to selection process of the procedures.
- Reinstatement of the employee and if appropriate reimburse any outstanding pay.

8 Redeployment (Support Staff)

A redeployee is an employee who has been displaced as a result of the organisational change. Every effort will be made to ensure that all employees have access to all facilities available to them to find a new position through re-deployment. (redeployment form appendix 19).

The redeployment period will be the length of the contractual notice period. Any offer of redeployment must be suitable in terms of pay, status, place of employment etc

8.1 Obligations of Redeployee

A redeployee's obligations are:

- To prepare well and present the best application possible for all suitable posts.
- To consider all reasonable offers of suitable work.
- To be as flexible as possible in the work you are prepared to consider as suitable and its location.
- Wherever possible to inform your manager/Head teacher in good time if you require time off for training or job searching.
- To undertake the duties of a new post at the level of pay you are receiving.

To consider all further reasonable offers of work which would reduce or eliminate your protected pay.

- To be as flexible as possible in the work he/she is prepared to consider as suitable and its location.
- To consider all further reasonable offers of work which would reduce or eliminate protected pay.

8.2 Redeployment within the School

If there is suitable alternative employment available in the school, the Head teacher must advise the employee of this on behalf of the Trust Board. The Governing Body Committee* should write to the employee with a firm offer setting out the details of the alternative post. (withdrawal of termination letter appendix 20).

8.3 Redeployment to a School within Waltham Forest

Redeployment for staff based in schools cannot be guaranteed but every effort to support the employee in seeking alternative work will be made. The redeployee may apply for any vacancy at another school within Waltham forest and will be considered prior to other candidates.

8.4 Training

Consideration should be given to any training, which may reasonably be available to improve a redeployee's performance in a job on a short timescale, but such training is usually given on the job.

Employees selected for redundancy will be given reasonable paid time off work during their notice period to look for work or seek retraining opportunities. All requests for time off must be

agreed with the line manager/Head teacher.

8.5 **Trial Periods**

The redeployee will have a trial period of 4 weeks in which to undertake initial induction and training to become accustomed to the new role and demonstrate their suitability for the post. A trial period will be 4 weeks unless there are exceptional circumstances warranting a longer trial period of up to 8 weeks. Any request for an extension will be considered on a case by case basis.

8.6 **Protection of Earnings**

For support staff, a redeployee who accepts an offer of suitable alternative work which is on a lower grade (normally within one grade from which they were made redundant) may be paid at their substantive spinal column point/grade immediately before redeployment for a period of six months or until the maximum spinal column point/grade of the new job meets or overtakes the protected grade. For teaching staff the safeguarding arrangements are as set out in the STP&CD and Burgundy Book will apply.

9 REDUNDANCY BENEFITS

A redundant employee will be entitled to claim a statutory redundancy payment (if he/she satisfies the relevant criteria), which would be calculated according to age and length of service. The employee must have been dismissed by reason of redundancy and have two years qualifying continuous employment at the effective date of termination.

9.1 **Service**

Under the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999, all school employees can also count previous teaching service or any other continuous service with one or more local authorities, where there has not been a break in employment. Any break of service of one week will break the continuity of service for a redundancy payment. Only complete years of service are counted.

9.2 **Payment**

The redundancy payment (which complies with age discrimination policy) is calculated as follows and based on the statutory Redundancy Matrix.

- (i) one and half week's pay for each complete year of service after reaching the age of 41.
- (ii) one week's pay for each complete year of service between the ages of 22 and 40 inclusive; and
- (iii) half a week's pay for each complete year of service after reaching the age of 18 but not having reached the age of 22.

Payment is based on actual pay rather than the statutory weekly limit and applies to both teaching and support staff.

(Regulation 5 of the Teachers Compensation for Redundancy and Premature Retirement Regulations maintains the discretion for teacher's employers to disregard the earnings limit and to pay compensation for redundancy based on a teacher's full earning.)

NB The maximum number of service years is 20 when calculating redundancy payment.

9.3 **Salary**

Salary is calculated on the average of the last twelve weeks of pay and is defined as all contracted pay. Any temporary or 'acting-up' allowance will only be included if it has been part of the salary package for twelve months or more.

In the case of a term-time only employee a weeks' pay for redundancy purposes is the annual salary divided by the number of weeks worked plus any weeks where the employee has paid leave.

9.4 **Redundancy Modification Order**

If an employee is offered a post with another employer covered under the above Order (all local authorities in England, Wales and Scotland) before the termination of the employment, which commences within 4 weeks of the termination, he/she will lose the right to redundancy payment.

9.5 **Responsibility for Payment**

A panel of Trust Board members including Human Resources and Finance will review the restructure rationale and business case savings versus costs. The Trust Board will consider meeting the redundancy costs against a set of criteria and this will be on a case by case basis.

10. PENSION

Staff who are dismissed on the grounds of redundancy and over the age of 55 years and members of the Local Government Pension Scheme or the Teachers Pension Scheme will be eligible for early retirement.

For teachers who are dismissed on the grounds of redundancy and eligible for premature retirement under the Teachers Pension Scheme, there will be no actuarial reduction in their pension benefits. The proportion of the mandatory additional lump sum and annual pension payable under TPS scheme will be paid from LA funds.

Estimates of calculations based on years of pensionable service and salary will be provided to staff by Human Resources. Estimates will be sent to staff for checking and verification.

Further information on the pension aspects of redundancy can be obtained
For Teachers' Pension Scheme (TPS)

For members through the TPS secure member area: My Pension Online.
Email - tpmail@teacherspensions.co.uk
Tel: 0845 6066166
Minicom: 0845 6099899
Fax: 01325 745789

Mowden Hall
Darlington
DL3 9EE
Website :- www.teacherspensions.co.uk

For Local Government Scheme (LGPS)

Millbank House
171-185 Ewell Road
Surbiton
KT6 6AP
Tel: 020 8972 6050, 020 8972 6051

Twitter: @Capita_EB

www.capita.co.uk/employeebenefits

11 INDIVIDUAL RETIREMENT IN THE EFFICIENCY OF THE SERVICE – TEACHING STAFF

11.1 Premature Retirement Scheme

Retirement in the efficiency of the service is entirely different to retirement on the grounds of redundancy and will only be granted in exceptional circumstances. Retirement on these grounds is covered under the Council's Premature Retirement Scheme for Teachers. In these circumstances the package would not include a redundancy payment and will be without enhancement.

11.2 Phased Retirement

Where teaching staff are appointed to alternative posts within the new structure, which are of lesser responsibility, part-time or job share, and therefore avoiding redundancy, Phased Retirement may be available.

Teachers Pensions regulations allow members to receive pension benefits without the requirement for the individual to retire. The regulations allow members to 'phase' into retirement from age 55.

Some of the conditions for phased retirement, for in service members of the TPS are as follows:

- The member's contributable salary must be at least 25% lower than the pre-phased salary, and certified by the employer. The pre-phased salary is the average of the previous 6 months salary.
- For the first 12 months after phased retirement, salary must not exceed 75% of the pre-phased salary (plus any standard salary increases).
- If salary increases within the 12 months then the pension is stopped.
- No abatement applies and benefits drawn before normal pensionable age will be actuarially reduced.
- Up to 75% of benefits can be taken whilst in phased retirement.

Flowchart of Organisational Review/Change Procedure

