



# Chiltern Way Academy

Turning Futures Around

## Redundancy Policy and Procedure

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**Responsibility for this policy (job title): Business Director**

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## **CHILTERN WAY ACADEMY REDUNDANCY POLICY & PROCEDURE**

### **1. INTRODUCTION**

- 1.1** This document sets out the Academy's Redundancy Policy and Procedure. The Policy details the process to be followed to effect fair and lawful redundancies.

### **2. SCOPE**

- 2.1** Once adopted by the Governing Body, this Redundancy Policy and Procedure applies to all school based staff.

### **3. ROLES AND RESPONSIBILITIES**

- 3.1** Governors and the Principal have a responsibility within this procedure to:
- a. Ensure the Redundancy Policy is followed correctly, seeking advice from the Human Resources Consultancy Team or the school's Human Resources provider at the earliest opportunity;
  - b. Minimise redundancies wherever possible;
  - c. Ensure the redundancy process is applied fairly, the redundancy selection criteria is fair, objectively justified, non-discriminatory and employees selected for redundancy have the opportunity to appeal the decision;
  - d. Adhere to the timescales detailed within the policy;
  - e. Consult with the relevant Trade Unions and Associations when redundancy is a possibility as well as informing staff; and
  - f. Wherever possible offer suitable alternative work or where possible redeployment for any employee who is to be made redundant.

### **4. PRINCIPLES**

- 4.1** The decision to dismiss by reason of redundancy is the decision of the school Governing Body.

- 4.2** The Governing Body seeks to ensure, as far as possible, security of employment for employees by careful forward planning. However, it is recognised that from time to time the needs of the school may lead to reduced staffing requirements. The Governing Body, in conjunction with the Human Resources provider (hereafter referred to as external representatives), in consultation with the relevant Trade Union/Associations, will seek to avoid redundancy by exploring the measures detailed at paragraph 6.1.
- 4.3** The Principal is strongly advised to seek advice at the earliest opportunity and thereafter. This advice is available from our Human Resources provider and professional associations.
- 4.4** Consultation between the Governing Body and the relevant Trade Unions/Associations should be meaningful and within the statutory timescales.
- 4.5** The Policy and Procedure contained within this document is founded on the following principle of not to discriminate against any individual in the application of this policy and procedure on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, religion or belief, sex, sexual orientation, or other grounds protected in law (e.g. part-time worker status, trade union membership or HIV positive status).

## **5. WHAT CONSTITUTES A REDUNDANCY?**

- 5.1** A redundancy situation exists where an employee who is dismissed shall be considered dismissed for redundancy if the dismissal is attributable wholly or mainly to one of the options below:
- (i) The employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed; or
  - (ii) The employer has ceased, or intends to cease, to carry on the business in the place where the employee was employed; or
  - (iii) The requirements of the business for employees to carry out work of a particular kind has ceased or diminished or are expected to cease or diminish; or
  - (iv) The requirements of the business for the employees to carry out work of a particular kind, in the place where they were so employed, has ceased or diminished or are expected to cease or diminish.

## **6. PLANNING TO AVOID REDUNDANCY**

- 6.1** The Governing Body will, as part of the planning process, seek to avoid or minimise any problem of employee surplus in cases where future reductions in staffing are known to be likely. The Governing Body should consider the following:
- a. Achieving staffing reductions through natural wastage
  - b. Restricting the recruitment of permanent staff
  - c. Reducing the use of temporary staff without infringing employment rights
  - d. Reduction in hours - where agreed with the employee or allowed for in the contract of employment
  - e. Filling vacancies from among existing employees (offering suitable alternative work within the school)
  - f. Job share
  - g. Seeking applicants for premature retirement; and voluntary redeployment of employees within the Academy

## **7. VOLUNTARY REDUNDANCIES**

- 7.1** Ideally any redundancies should be voluntary, rather than compulsory. Consistent with its strategy of avoiding compulsory redundancies, the school may invite volunteers for redundancy. An employee's expression of interest in applying for voluntary redundancy will not imply any commitment on the part of the employer or employee concerned.

Irrespective of whether volunteers for redundancy are being sought, employees may apply to be considered for voluntary redundancy at any time of the year. Applications shall be considered on a case by case basis (as per paragraph 7.3 below).

- 7.2** The employee should request voluntary redundancy formally in writing.
- 7.3** Applications for voluntary redundancy will be considered by the redundancy committee based on the operational needs of the school for particular types of employee with specific skills and experience. The Governing Body has the right to retain any member of staff on the grounds of specialist knowledge, training and qualifications to preserve organisational balance and therefore has the right to refuse or to accept any volunteers for redundancy.

**7.4** Where an employee's application for voluntary redundancy is refused and the employee feels they have been treated unfairly, they should use the Schools' Grievance Policy and Procedure to register a grievance against the decision.

## **8. COMPULSORY REDUNDANCIES**

**8.1** If the situation is not resolved by means of voluntary redundancy, the selection of employees for compulsory redundancy will be carried out using fair, objective and non-discriminatory criteria. Compulsory redundancies should only take place once measures to avoid compulsory redundancies have been explored. The Redundancy Toolkit provides separate models for this for teachers and support staff.

## **9. FINANCIAL RESPONSIBILITY**

**9.1** Where the procedures outlined in this Policy document have been adequately followed responsibility for costs are as follows:

- a. Teacher's redundancy payment – School
- b. Teacher's pension lump sum – School (where premature retirement is permitted)
- c. Teacher's pension extra costs – School (where premature retirement is permitted)
- d. Teacher's Pension – Teachers Pension Fund (where premature retirement is permitted)
- e. Support staff redundancy payment – School
- f. Support staff pension strain – School. (where early retirement is permitted)
- g. Support staff pension – Local Government Pension Scheme (where early retirement is permitted)

**NOTE 1:** Pension Strain and Extra Costs – a sum of money payable to the relevant Pension Fund to cover the cost of early retirement.

**9.2** Under the process for premature retirement on redundancy grounds, the school is the

“Deciding Authority” and the “Compensating Authority” and has a role in agreeing funding of a proportion of the accrued benefits.

- 9.3** If a redundancy is subsequently the subject of a hearing before an employment tribunal or other judicial process the costs will be met by the school.

## **10. FINANCIAL ENTITLEMENTS**

**10.1** Statutory entitlements to redundancy pay are calculated in accordance with the Employment Rights Act 1996, Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999 (as amended), The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997 and The Local Government (Early Termination of Employment)(Discretionary Compensation) (England and Wales) Regulations 2006. The Academy uses its discretion to base these payments on actual pay; therefore these are not limited to the statutory maximum wage as stated in the Act.

**10.2** An employee who is dismissed by reason of redundancy will be entitled to a redundancy payment providing they have at least two years’ continuous service with the Academy or related employers in line with the Modification Order 1999 (see below). Where an employee unreasonably refuses an offer of suitable alternative employment, no redundancy payment is payable.

**10.3** Under the Redundancy Payments (Continuity of Employment in Local Government) Modification Order 1999, continuous employment with more than one local authority or other specified employer, is counted as continuous service with one employer, both for the calculation of a redundancy payment and in the disqualification from payment in certain circumstances where an offer of further employment is accepted.

Consequently, a redundancy payment will not apply where the employee, still in employment with Chiltern Way Academy, receives an offer of employment, with another local authority or other specified body, commencing within four weeks after the end of the current contract of employment. In cases where the current contract ends on a Friday, Saturday or Sunday, the redundancy payment will not apply where employment commences on or before the fifth Monday following the end of the current contract. Where an offer of employment with another

local authority or other specified body is made after the employee has left before the fifth Monday after their contract has ended with Chiltern Way Academy the employee would still be entitled to a redundancy payment.

#### **10.4 Teachers' Redundancy Payments**

Redundancy Payments for staff employed under Teachers Pay and Employment Conditions are based on an individual's age and length of service, up to a maximum of 20 years' service. For each completed year's service this equates to:

Service Between Age Entitlement:

- 21 and under = Half a week's pay per year
- 22 to 40 = One week's pay per year
- 41 and above = One and a half weeks' pay per year

**10.5** Staff in the Teachers' Pension Scheme qualify for immediate pension if they are retired early on grounds of redundancy and are aged 55 or over and have a minimum of two years' service, including any transferred pension rights from another scheme.

#### **10.6 Redundancy Payments for other employees**

Redundancy payments for employees that are employed under Bucks Pay and Conditions are based on an individual's length of service, up to a maximum of 20 years' service. For each completed year's service this equates to:

- One and a half weeks' pay per year

**10.7** Employees in the Local Government Pension Scheme qualify for an immediate pension if they are retired early on the grounds of redundancy (or in the interest of the efficiency of the service) and are aged 55 or over with 3 months' membership or have transferred pension rights of any length in the LGPS from another scheme.

**10.8** Pension entitlements payable under this Policy can be complex. Information is available from the Teachers' Pensions Team at [www.teacherspension.co.uk](http://www.teacherspension.co.uk) or the Local Government Pensions Scheme Team, who can be emailed at [pensions@buckscc.gov.uk](mailto:pensions@buckscc.gov.uk).

## **11. STARTING THE REDUNDANCY PROCESS: ADVICE, NOTIFICATION AND CONSULTATION**

**11.1** Where the redundancy avoidance measures have been considered but a potential redundancy situation still exists, the Governing Body will need to:

- a. Determine the number and type of posts that may be surplus to the school's requirements
- b. Restrict discussion to broad issues only, in order to abide by Committees having detailed prior knowledge of the circumstances and ensure a fair hearing
- c. Establish a panel of governors to apply its Redundancy Policy and Procedure. This function is usually delegated to the Staff Dismissal and Staff Dismissal Appeals Committees and the Governing Body would need to ensure that both of these Committees (referred to as Redundancy Committees in this policy) are in place. Each Committee should comprise of a minimum of three governors, and be of the same size. An odd number is recommended. No governor may be a member of both Committees, nor may the Principal be a member of either, but he/she will be expected to attend in order to present the case or answer questions
- d. Both Committees will be convened by the Clerk to the Governing Body and a formal record of the proceedings must be kept

**11.2** The Governing Body is required under the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995, when proposing to make 20 or more employees redundant, to consult in good time with the relevant, Trades Unions/Associations about the potential redundancy situation and to inform all staff affected.

**11.3** The statutory timetable for consultation is as follows:

Employees to be dismissed through reasons of redundancy within a 90 day period.

<b>Number of employees dismissed by redundancy</b>	<b>Minimum consultation period before redundancy takes effect</b>
20-99	5 weeks (35 calendar days) unless agreed by employees to be reduced

100+	45 calendar days
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- 11.4** There is no statutory set period for consultation laid down where redundancies involve fewer than 20 employees. In these circumstances 5 weeks' consultation will apply.
- 11.5** If there is no relevant Trade Union(s), the employees should elect employee representatives for consultation purposes. Although not required by law, in the interest of good employee relations, the Governing Body will continue to consult relevant Trade Unions/Associations or elected employee representatives when proposing to make any redundancies. It is the Governing Body's responsibility to write to the relevant Trade Unions/Associations or employee representatives (see Section 188 letter, Appendix 1 of the Redundancy Toolkit). The Governing Body may choose to delegate this responsibility to Human Resources Consultancy or the School's Human Resources provider. The Section 188 includes the following information:
- a. The reasons for the proposals
  - b. The numbers and descriptions of employees whom it is proposed are 'at risk' of redundancy
  - c. The total number of employees of that description at the school
  - d. The proposed method of selecting employees for redundancy
  - e. The proposed method of carrying out the dismissal including the period over which the dismissals are to take effect
  - f. The date of the first consultation meeting
  - g. The proposed method of calculating the amount of any redundancy payments
- 11.6** At the same time as the written notification is issued to the relevant Trade Unions/Associations, the Principal will inform the staff of the situation and the date of the first consultation meeting. Those invited should include all employees likely to be affected, the relevant Trade Unions/Association representative(s) a representative of the Redundancy Committee, the external representatives. There may be a need to hold more than one consultation meeting for employees on different conditions of service.
- 11.7** Staff on maternity or adoption leave or long term sickness must be consulted and kept informed about the redundancy situation. It is automatically unfair dismissal to select an employee for redundancy on the grounds of taking maternity or adoption leave. An employee on maternity

or adoption leave who is under notice of dismissal on the grounds of redundancy must be offered any suitable alternative vacancy available in preference to other employees. Failure to comply with this requirement will result in a finding of automatic unfair dismissal at an employment tribunal.

- 11.8** In addition to consulting with relevant Trade Unions/Associations, it is necessary to notify the Secretary of State at the Department for Business, Enterprise and Regulatory Reform of proposed redundancies involving twenty or more employees at any one school in a 90 day period. The Secretary of State must be informed before any redundancy notice is issued and where 20-99 employees are to be made redundant, at least 30 days before the first dismissal takes effect, or 45 days before in the case of 100 or more employees.
- 11.9** The Secretary of State should be notified using Form HR1, which should also be copied to the relevant Trade Unions/Associations who were consulted. It is the responsibility of the Governing Body to complete the HR1 form, although they may choose to delegate this responsibility to their HR provider.
- 11.10** The object of the consultation process is to reach agreement with the relevant Trade Unions/Associations. Any written proposals made by the relevant Trade Union/Associations or affected staff will be considered by the Redundancy Committee and a written response will be given.

## **12. CONSULTATION MEETINGS**

### **Group Consultation Meetings**

- 12.1** At the same time as the written notification is issued to the relevant Trade Unions, the Line Manager will inform employees of the situation and the date of the first group consultation meeting. Those invited to the consultation meeting should include all employees likely to be affected and the relevant Trade Unions/Association representative(s). Normally a member of the Human Resources team would be consulted prior to the meeting for advice or they may attend. There may be a need to hold more than one group consultation meeting for employees

on different conditions of service, working patterns or at different locations.

**12.2** The consultation process will include:

- a. Strategies to try to avoid redundancy
- b. Dates of any subsequent consultation meetings
- c. The reasons for the proposed staffing reduction
- d. Full budgetary information where the reason for the proposed staffing reduction is financial
- e. The procedure to be used
- f. Selection criteria for identifying the post(s) to be declared redundant (The Toolkit provides separate models for this for teachers and support staff)
- g. Selection criteria in the event that there are too many volunteers for redundancy (See paragraph 7.2)
- h. The timescale

**12.3** Strategies to avoid redundancy must continue to be pursued as per paragraph 6.1.

**Selection Criteria**

**12.4** At the end of the 5 week/45 day consultation process, it is the responsibility of the Redundancy Committee to select employees out of the relevant selection pools for redundancy using criteria that is fair and objective. Please refer to the Redundancy Selection Criteria Matrix in the Redundancy Toolkit for further information on selection for redundancy.

**12.5** An employee on secondment to a school that is being reorganised will have the choice of either returning to their substantive post or being considered for a post in the new structure, provided that this is not to the detriment of any substantive job holder. Where there is competition for posts in the new structure, priority will be given to permanent employees within the area being reorganised. A seconded employee who secures a job in the new structure waives their right to return to their substantive post. It is important that the manager keeps in touch with the manager of the seconded employee's substantive post if there is any likelihood that the secondment may end early.

**13. REPRESENTATIONS TO THE REDUNDANCY COMMITTEE**

**13.1 Stage 1**

Once the Redundancy Committee has provisionally identified the post to be declared redundant the post holders will be individually notified in writing of the grounds on which the dismissal is being contemplated. The employee should be notified of their right to make representations, that they have the right of appeal and reminded that they have the right to be accompanied by a Trade Union/Association representative or colleague at the hearing. The representations can be made in person and/or in writing. They will have five working days to give written notice to the Principal of their intention to make representations to the Redundancy Committee.

### **13.2 Stage 2**

The Clerk to the Governing Body will ensure that documentation, to be submitted to the Redundancy Committee hearing, is sent to all parties concerned prior to the hearing.

### **13.3 Stage 3**

The hearing should be conducted as follows:

- a. The Chairman of the Redundancy Committee will make the necessary introductions
- b. The Principal or Chairman of the Redundancy Committee will present the Committee's reasons for its nomination of the post for redundancy
- c. The employee (and/or their representative or colleague) and the members of the Redundancy Committee may ask questions of the Principal or Chairman of the Redundancy Committee
- d. The employee (and/or their representative or colleague) will make representations against selection for redundancy
- e. The Principal and the members of the Redundancy Committee may ask questions of the employee (and/or his/her representative or colleague)
- f. The Principal or Chairman of the Redundancy Committee may sum up their case if he/she so wishes
- g. The employee (and/or their representative or colleague) may sum up their case if he/she so wishes
- h. The Principal and the employee (and his/her representative or colleague) should withdraw from the hearing. The Clerk and external representatives will remain
- i. The Redundancy Committee will come to a decision
- j. The Redundancy Committee will announce its decision to both parties in person

or subsequently in writing within 3 working days. The Clerk will confirm an oral announcement in writing. The letter should state that the representations have been properly considered, give reasons for the decision and, in the event of the Redundancy Committee confirming its original decision, should advise the employee of his/her right of appeal and give five working days for him/her to give written notice to the Principal of his/her wish to appeal

**NOTES:**

1. If the Principal does not present the case on behalf of the Redundancy Committee, he/she will attend throughout the hearing to answer questions from all parties.
2. The Committee may recall the Principal and the employee (with their representative or friend) to clear points of uncertainty on the information which has been given, provided that both parties are recalled even if the point of uncertainty concerns the views of one party only.

**14. DISMISSAL ON THE GROUNDS OF REDUNDANCY**

- 14.1** The Chair of Governors will immediately notify the Authority in writing of the Governing Body's decision that the employee's role is redundant. The Authority will issue a formal notice of dismissal to the employee within 5 working days. In the case of a dismissal at an Aided or Foundation school, it is the responsibility of the Governing Body to issue the formal written notice of dismissal.
- 14.2** The employee will receive the period of notice on full pay to which their contract of employment entitles them, or the statutory minimum notice equating to one week for each completed year of service with the Academy up to a maximum of 12 weeks, whichever is the greater. An employee with less than 2 years' continuous service with the local Authority and related employers is not entitled to a redundancy payment; however they are entitled to such paid notice in accordance with the Employments Rights Act 1996. A redundancy payment will not apply where the employee, still in employment at Chiltern Way Academy, receives an offer of employment with another local authority or other specified body, commencing within four weeks after the end of the current contract of employment. In cases where the current contract ends on a Friday, Saturday or Sunday, the redundancy payment will not apply where

employment commences on or before the fifth Monday following the end of the current contract. Where an offer of employment with another local authority or other specified body is made after the employee has left but before the fifth Monday after their contract has ended with Chiltern Way Academy the employee would still be entitled to a redundancy payment.

- 14.3** Employees issued with redundancy notices may ask to be allowed to leave their job early before expiration of their notice period. Alternatively, staff may issue the employer with a written counter-notice. This will not invalidate the right to a redundancy payment except where the employer successfully contests the application. Employees will still be deemed to be made redundant, but on the date of expiry of the employee's notice and not of the original notice from the employer.
- 14.4** Where it is not possible to serve notice sufficiently early to fulfil the contractual or statutory notice requirement, a payment in lieu of notice will be made and the employee will not be required to attend for work during the period.
- 14.5** Teachers will be required to work until the end of term in line with their contract therefore their appropriate redundancy notice will be given accordingly (the toolkit outlined the term process in more detail).

## **15. FORMAL APPEAL AGAINST SELECTION FOR REDUNDANCY**

### **15.1 Stage 4**

Following receipt by the Principal of the written notice of appeal, the employee will be invited to attend a hearing of the Appeal Committee and given at least five working days' written notice of the meeting. The letter should remind the employee of the right to be

accompanied by a Trade Union/Association representative or colleague at the hearing, and state that representations may be made in person and/or in writing.

### **15.2 Stage 5**

The Clerk of the Governing Body will ensure that all the documentation, which was submitted to the Redundancy Committee is sent to all parties concerned prior to the appeal hearing.

### **15.3 Stage 6**

The appeal hearing should be conducted as per the redundancy hearing. Further information is provided in the redundancy toolkit.

#### **NOTES:**

1. If the Principal does not present the case on behalf of the Appeal Committee, he/she will attend throughout the hearing to answer questions from all parties.
2. The Committee may recall the Principal and the employee (with their representative or colleague) to clear points of uncertainty on the information which has been given, provided that both parties are recalled even if the point of uncertainty concerns the views of one party only.

## **16. REDEPLOYMENT/SUITABLE ALTERNATIVE WORK**

- 16.1** Every reasonable effort must be made to assist the person to be dismissed on grounds of redundancy to find alternative employment.
- 16.2** Where suitable alternative work is available within the school it should be offered. If suitable alternative work in terms of pay, grade, job content, status and place of work is made and the employee unreasonably refuses it there will be no liability to make a redundancy payment.
- 16.3** With the agreement of all concerned, a member of staff can be offered “bump” redundancy if their school agrees to accept another member of staff on redeployment from a different school, who would otherwise be redundant.

**16.4** Where a new post is significantly different there is an entitlement to a four week trial period and if this should prove unsuccessful the original redundancy payment entitlements would still apply.

## **17. SUPPORT FOR STAFF**

**17.1** Staff under threat of redundancy can seek confidential advice from their Trade Union/Association, Human Resources ER Advisory Team about the redundancy process and or the financial package available. Advice may also be obtained via the Employee Assistance Programme.

**17.2** Employees who are under notice of redundancy will be entitled to reasonable paid time off to look for alternative employment.

**17.3** Redundancy can be a traumatic experience for employees, especially for those who have worked for many years in a stable environment. Some employees will have special difficulties to contend with and the Managers will endeavour to provide information, advice and help within the resources available.