

Lyminster Primary School



Redundancy Policy

Lyminster Primary School Wick Street, Littlehampton, West Sussex, BN17 7JZ

Created Date: September 2022
Review Date: September 2023
Model Policy Nov 2020

POLICY



Model Redundancy Policy.

1. Aim of the Policy

The aim of this policy is to set out a clear and fair way for Governing Bodies/Board of Trustees and Headteachers to:

- Manage potential redundancy situations, including seeking volunteers for redundancy, where appropriate.
- Consult recognised Trade Unions and Professional Associations about ways to avoid compulsory redundancies.
-
- Comply with employment law regarding consultation and redundancy, and minimise the risk of unfair dismissal claims.

This policy is supplemented by guidance for Headteachers/Managers, and “Key facts” for employees. Both of these documents can be found on West Sussex Services for Schools.

Who can help?

If headteachers/ line managers need support with managing staffing reductions they can contact HR Professional Support for advice on 033022 22422 or email HR.Professional.Support@westsussex.gov.uk

2. Scope of the Policy

This policy applies to Support Staff and Teachers employed by Schools.

This policy and any process followed are not intended to be contractual.

For some academies, staffing matters are the responsibility of the Board of Trustees. Where this is the case the term “board of governors/governing body” should be read as “board of trustees” or “trustees”

3. When should this policy be applied?

This policy should be used when redundancy is identified as a potential outcome.

A post is potentially redundant where:

- The requirement for work of a particular kind has reduced or come to an end, or is likely to reduce or come to an end;
- or

- The requirement for work to be carried out at a particular workplace has reduced or come to an end, or is likely to reduce or come to an end;

or

- The school has stopped or intends to stop, undertaking the service or function for which the employee(s) is employed.

When this definition is met, the post will be redundant, and the employee in the post may be entitled to a redundancy payment, dependant on their length of service.

Where an employee is on a fixed term or temporary contract, and their contract is due to end, the employee may be entitled to a redundancy payment, based on their length of service. For information on this process, please see 'Employees on Fixed Term Contract – Guidance for Schools' that can be found on West Sussex Services for Schools.

4. Authority to Dismiss and Local Authority Representation at Meetings Community, Voluntary Controlled, Community Special and Maintained Nursery Schools

Although governing bodies are responsible for making decisions regarding redundancies, the Authority must be first consulted.

Once a governing body has confirmed an employee's designation as redundant, this should be confirmed in writing to the Authority. The Authority is required to issue contractual notice of redundancy within 14 days of receiving this confirmation.

Where an employee appeals their designation for redundancy, or their dismissal, the Director of Education & Skills or his/her representative is entitled to be present at that meeting to give advice.

Foundation, Voluntary Aided and Foundation Special Schools

The governing bodies of these schools are responsible for making decisions regarding redundancies; however, they are also strongly advised in their own interests to consult with the Authority prior to making decisions regarding redundancies.

Governing bodies of these schools are responsible for issuing contractual notice of redundancy once an employee's designation has been confirmed, i.e. confirmation that the employee will be dismissed on the grounds of redundancy.

Where an employee appeals their designation for redundancy, or their dismissal, the Director of Education & Skills or his/her representative **may** be present to offer advice and governing bodies are strongly advised to invite this representative to attend to provide advice.

Academies (where the WSCC Model Policy has been adopted)

The governing bodies (board of trustees) of these schools are responsible for making decisions regarding redundancies.

The governing body (board of trustees) are responsible for issuing contractual notice of redundancy once an employee's designation has been confirmed, i.e. confirmation that the employee will be dismissed on the grounds of redundancy.

5. Key components of the Redundancy Policy

Where potential redundancies are identified the school will:

1. Ensure meaningful consultation with Trade Unions/Professional Associations and Staff

This includes:

- Obtaining views and opinions about the proposals before final decisions are made;
- Ensuring that staff and their representatives are informed of the proposals and involved in what is happening throughout the process (this must be done via a letter or document explaining the proposals, see guidance for more information);
- Seeking ways to minimise the number of compulsory redundancies (see 2 below);
- Seeking to minimise the inevitable feelings of uncertainty that the potential of redundancy brings; and
- Adhering to the schools staffing reductions timetable, and if it is proposed to make redundant 20 or more employees, ensuring that the statutory timetable for consultation is also met.

The guidance on the redundancy process provides a practical approach to consultations.

2. Avoid making compulsory redundancies wherever possible

The methods to avoid putting people at risk of compulsory redundancy will vary in each situation, dependent on the needs of the school and the type of organisational change, but can include a combination of:

- Managing vacancies by deleting vacant posts or holding vacancies for redeployment;
- Reviewing temporary and supply/ agency work arrangements;
- Voluntary reduction in hours;
- Flexible Retirement provisions (please refer to flexible retirement policy for support staff and for Teachers to the Teachers Pension Scheme website);
- Voluntary Early Retirement (Please refer to the Pensions Discretions Policy);
- Seeking volunteers for redundancy where a reduction in the total headcount is needed. See Section 6 'Voluntary Redundancy';
- Seeking to place employees in alternative employment, called redeployment. (please refer to the redeployment policy and guidance); and
- Re-skilling opportunities, to enable staff to move into alternative posts.

3. Use fair methods to select for redundancy

If compulsory redundancies are necessary, the selection criteria used will be fair, objective, consistent and free from unlawful discrimination or bias.

Advice can be sought in the first instance from the HR Professional Support Team, on how to tailor the selection criteria appropriately to the needs of the school.

In situations such as a total school closure, or because there is less work of a unique type relating to specific post(s) at a specific work location, there may not be a need to use a selection process. The HR Professional Support Team can provide advice on the circumstances where this may be applicable.

An equality analysis should also be completed to ensure that the proposals and proposed methods of selection are free from discrimination and any potential discriminatory effects are removed, or where relevant, can be objectively justified. Guidance on the equality analysis can be found on West Sussex Services for Schools.

4. Make redundancy payments

Employees who have 2 or more years continuous service with an organisation listed on the Redundancy Payments Modification Order, are entitled to receive a statutory redundancy payment. This includes service at other local authority schools and in other local authorities.

In addition to the statutory scheme, the Local Authority provides enhanced redundancy payments to employees satisfying the criteria outlined above. Please refer to appendix A for further information.

5. Provide Access to Pension

Support Staff

Employees aged 55 and over, who are members of the Local Government Pension Scheme and who are being made redundant are automatically eligible for immediate payment of their accrued pension benefits.

There is a cost attached to the early release of pension.

Teachers

The County Council does not release premature retirement benefits (unreduced pension benefits) to employees aged 55 and over, who are members of the Teachers Pension Scheme and who are being made redundant.

Teachers being made redundant may however voluntarily opt to access their pension benefits on an actuarially reduced basis, subject to the rules of the Teachers' Pension Scheme. Access to actuarially reduced benefits is at the discretion of the County Council. The County Council will not unreasonably withhold consent for access to these benefits, providing the employee has ceased all pensionable employment.

Teachers can also opt to access pension benefits on an unreduced 'age' basis if aged 60 or over, provided the teacher joined the scheme prior to 1st January 2007, or age 65 or over, if the teacher joined the scheme from 1st January 2007, subject to the rules of the Teachers' Pension Scheme.

For more information about actuarially reduced benefits or "age" retirement please refer to the Teachers' Pension Website www.teacherspensions.co.uk

6. Obtain approval from the Local Authority for expenditure against the Redundancy Budget and verification of who will bear the costs of redundancy.

(Note: This does not apply to Academies as they are responsible for their own costs).

When a member of staff is made redundant and has more than 2 years service, a cost is usually incurred. The costs incurred are the:

- Redundancy Payment.
- Local Government Pension Scheme Actuarial Pension Costs for Support Staff aged 55 and over (this is the cost of paying the pension early).

Who pays the cost is specified in the section 37 of the Education Act 2002? All schools will be required to follow a financial approvals process to obtain verification of who will bear the costs of redundancy and approval for expenditure against the redundancy budget.

Details of this financial approvals process can be found in the guidance.

7. Seek Redeployment/Retraining Opportunities for Staff at risk of or under notice of redundancy.

A school should seek to minimise the need for employees to be made redundant by seeking suitable alternative redeployment opportunities for them within the school, where they exist. Further information about this can be found in the guidance.

Redundancy payments may be withheld if an employee has unreasonably refused an offer of suitable alternative employment. Further advice and guidance on this can be found in the redeployment policy and guidance or by contacting the HR Professional Support Team.

8. Provide an appeal mechanism

Employees who are selected for redundancy via a selection process will have the right to appeal their designation for redundancy to the Headteacher.

Employees have a further right to appeal their dismissal on the grounds of redundancy, via the Governing Body's/Board of Trustees' Appeals Panel.

The appeal process is set out in more detail in the document "Guidance on the Redundancy process."

6. Voluntary Redundancy (VR)

The aim of voluntary redundancy is to provide a mechanism for employees to be able to apply to be made redundant. This mechanism can provide a way of avoiding the need to make employees compulsorily redundant and for employees to choose not to go through the selection processes involved in an organisational change/staffing reduction process.

- At the commencement of the consultation period Headteachers, where appropriate, will invite employees to consider if they wish to volunteer to be made redundant. There will be a set time in which the employee can volunteer and must make their application no later than the specified deadline date.
- The decision to accept an application for VR will be made by selected Governors/Trustees. There is no right to appeal against this decision.

Further information about this is available both in the Redundancy Guidance and in the Key Facts document that is available for employees that is available on West Sussex Services for Schools.

7. Application of the '2-year maximum' rule

The two-year rule is designed to ensure that the total cost of redundancy does not exceed an amount equivalent to two years' employment costs.

Please note that the 2-year maximum rule only applies to support staff, where pension is being released early.

The definition of Redundancy costs for the two-year rule includes the redundancy payment and the cost of providing early access to the employee's pension (this only applies to people in the LGPS who are aged 55-64).

Employment costs are full salary, plus National Insurance and other employer costs directly attributable to that employment.

If the redundancy costs for the employee are greater than two years of "employment costs", then the School/Authority may decide to:

- Refuse an application for voluntary redundancy, or
- Reduce the employee's redundancy payment to bring the total redundancy costs to less than 2 years employment cost. Please note, the redundancy payment will be no less than the amount an employee is entitled to under the Statutory Redundancy scheme, using actual weekly pay rather than applying the statutory maximum. (For details of the statutory redundancy scheme, please see Appendix one).

If an employee has applied for voluntary redundancy, but their redundancy payment is reduced as a result of the 2-year rule, the employee may decide not to proceed with their application for VR.

If the employee is being made compulsorily redundant, they will be advised that their redundancy payment has been reduced in line with the 2-year rule.

8. Re-employment with WSCC and other employers

Re-employment with West Sussex County Council and other Local Authorities, Local Authority Schools, Academies and other associated bodies is covered by the rules specified within the Redundancy Payments Modification Order (the Modification Order).

If an employee is under notice of redundancy (i.e. is still employed) and receives an offer of employment with another employer covered by the Modification Order and starts work within four weeks of leaving the school, they will lose their entitlement to the redundancy payments provided by this Scheme.

Please refer to the guidance document for further information about the order and how it affects re-employment.

In addition to the Modification Order there are specific rules that cover re-employment by West Sussex County Council (WSCC) or a Governing Body within the first 12 months after redundancy, these are set out below.

Re-employment by WSCC or a Governing Body within the first 12 months after redundancy.

Subject to the rules set out by the Modification Order, employees who have left on the grounds of redundancy, on a voluntary or a compulsory basis, may wish to apply for a job with the County Council or another School at some stage in the future. If this occurs within the first 12 months, after redundancy, re-employment will be permitted subject to the following conditions:

Back within your school

The governing body should be satisfied that:

- The employee is not being re-employed in a role or capacity, which is broadly similar to the role that they were made redundant from; AND
- They are confident that there is no risk of questions being asked internally or externally about the validity of the appointment or the original redundancy decision.

Re-employment in WSCC, or another WSCC school

The governing body should be satisfied that:

- The role was not made available to the individual as a redeployment opportunity and they have unreasonably refused that offer.
- That the effect of the redundancy payments modification order is not deliberately being avoided (where appropriate).

9. Redundancy when on Maternity, Paternity and Adoption leave

All staff on maternity, adoption, paternity or parental leave, will be included in any consultation exercises, and will be kept informed throughout any periods of organisational change/staffing reductions.

Selecting an employee for redundancy on the grounds of pregnancy or due to the taking of maternity, paternity or adoption leave will be deemed automatically as unfair dismissal.

Statutory payments (SMP, SPP and SAP) are not affected and continue until the end of the Maternity or Adoption Pay Period, or until the employee starts work for a new employer

An employee on maternity, paternity 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.

Redundancy during maternity, paternity or adoption leave will end the contractual entitlement to occupational maternity, paternity and adoption pay and the right to return.

These payments can be counted in the payment of notice pay. Employees will not be required to repay the occupational element of any maternity/adoption pay paid to them on being made redundant.

10. Repayment of loans, including fees for study

(**Note:** Academies may have different policies on the repayment of loans).

All outstanding loans, e.g. car and bike loans, will need to be re-paid by the employee prior to their leaving, or they will be taken from their final payment.

Employees who have completed a course of study which was paid for, or subsidised by the Authority/School, and where there is an agreement to repay some or all of the costs if employment ceases within 2 years of the course completion, will not be expected to repay the costs of their course.

Employees who are studying for a qualification paid for or subsidised by the Authority will need to provide their own funding should they wish to continue the

course. The Authority's financial obligations will cease on the last day of their employment or at the end of the academic term following that day as appropriate.

Appendix 1 – Redundancy payments

All employees are entitled to Statutory Redundancy pay, which is set out below. In addition, there are two schemes for “enhanced” payments. One scheme applies to employees in the LGPS; the other to employees in the Teachers Pension Scheme.

The details of all the redundancy payments are included below:

The Statutory Redundancy Scheme

Under the terms of the statutory scheme, there is a cap on a week’s pay. The cap is set by the Government and is reviewed annually. For information on what the current statutory cap on a weekly pay is, please see the website: www.direct.gov.uk

Payments are based on an employee’s age, and length of service, subject to a maximum of twenty years service (the maximum awarded under the statutory scheme).

The payments are calculated as follows: Completed Years of Service at each age	No of weeks pay
41 and over	X 1.5 weeks pay
22 – 40	X 1 weeks pay
Under 22	X 0.5 weeks pay

The Enhanced Redundancy Schemes

Enhanced Redundancy Payment Scheme One

This scheme applies to:

School Support Staff on ‘Green Book Terms and Conditions of Employment – this includes HAY.

The payments:

In the event of redundancy, an employee’s redundancy pay is ‘enhanced’ in two ways;

- the payment is based on their actual weekly pay, and the statutory maximum is not applied, and
- The amount the employee is entitled to is multiplied by 1.5.

In addition, employees in the Local Government Pension Scheme who are aged 55 and over are entitled to early access to their pension scheme. Information about this provision is provided in the Key Facts document.

Enhanced Redundancy Payment Scheme Two

This scheme applies to:

Teachers

The payments:

In the event of redundancy, an employee’s redundancy pay is ‘enhanced’ in two ways;

- the payment is based on their actual weekly pay, and the statutory maximum is not applied, and
- The amount the employee is entitled to is multiplied by 1.5.

The County Council does not release premature retirement benefits (unreduced pension benefits) to employees aged 55 and over, who are members of the Teacher's Pension Scheme and who are being made redundant.

The enhanced multiplier for both schemes is agreed by the Chief Executive's Board and is subject to review on a regular basis.

Any payment made **includes** the employee's statutory right to a redundancy payment.

Produced by: Policy and Practice team (LRW)

Date revised policy produced: June 2011

Revised: January 2013 (to include academies)

Annex 1 - New redundancy policy written 17/06/2011, amended January 2013

Documents reviewed: March 2020 NH SHRS (updated HR contacts and Director of Education & Skills)

Sense checked: May 2020 KMG SHRS (numbering order in section 5 was incorrect and has been corrected)

END OF DOCUMENT