



## ORGANISATIONAL CHANGE MANAGEMENT POLICY

School staff and recognised unions were consulted by Suffolk County Council on this document and it was accepted by the Trust Board and reviewed and approved again	25 <sup>th</sup> September 2018
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**Section**

**Page No**

Organisational Change Management Policy .....**Error! Bookmark not defined.**  
Table of contents.....**Error! Bookmark not defined.**  
1. Introduction..... 3  
2. Status of this policy ..... 3  
    2.1 Who is covered by the policy?..... 3  
    2.2 When does the policy apply? ..... 3  
3. Minimising the impact of organisational change ..... 4  
    3.1 Organisation planning ..... 4  
    3.2 Adequate information ..... 5  
    3.3 Effective Consultation ..... 5  
4. Support ..... 7  
5. Redundancy .....**Error! Bookmark not defined.**  
6. Selection for redundancy ..... 7  
7. Avoiding redundancy dismissals..... 9  
8. Travel and Disturbance.....11  
9. Trial periods.....11  
10. Redundancy - Financial Arrangements..... 10  
    10.1 Early retirement..... 10  
    10.2 Approvals.....12  
    10.3 Statutory Redundancy Pay..... 11  
    10.4 The Trust's Compensatory Award.....13

## 1. Introduction

This policy sets out how the Trust will deal with the issues that arise when organisational change affects staffing requirements. Organisational change can lead to changes to job roles, redeployment and redundancies. The Trust wishes to ensure that the effects of organisational change on staff are minimised, and are handled as sensitively as possible.

This policy provides guidance to managers on their obligations when implementing organisational changes. It also provides information to employees, and their representatives, who find themselves affected by such changes.

It is important that this policy operates in accordance with the Trust's commitment to diversity and inclusion. The Trust does not tolerate discrimination on the grounds of age, caring responsibilities, disability, gender, gender reassignment, marriage or civil partnership, pregnancy or maternity, race (including colour, nationality and ethnic origin), religion or belief, sexual orientation, socio-economic status and trade union membership or non-membership.

When considering changes to employees' terms and conditions of employment that schools' leaders believe may fall within the remit of this policy, advice **must** always be sought from the Trust's HR Advisor.

## 2. Status of this policy

The purpose of the policy is to provide guidance and information. It sets out the principles the Trust believes are important when managing organisational change; it is neither a full statement of the law or a rulebook.

### 2.1 Who is covered by the policy?

This policy covers all Trust employees.

### 2.2 When does the policy apply?

Full and meaningful consultation with recognised unions and staff affected by planned changes will be undertaken at the earliest possible opportunity. It is essential that information be given to staff and trade unions at an early stage. On occasions, some business decisions will necessarily be taken prior to consultation. However, even in such circumstances there will remain many opportunities for dialogue as regards process and approach.

For example, a decision to cease a particular activity may not be negotiable due to circumstances. However, the manner in which that decision is implemented, in terms of securing redeployment opportunities and other supportive measures, would be an appropriate subject for consultation.

This policy applies whenever a school or schools implement change which may affect staffing structures. This may be as follows:

- **Changes to the way the work is done**

It may be necessary to introduce new ways of working. This may result in changes to shift patterns, reporting lines or the method by which the work is performed. Employees may, on occasion, be required to relocate their main place of work or develop new skills. Whilst this can be disruptive and unsettling, only rarely will this type of change result in the termination of an employee's employment by reason of redundancy.

- **Reductions in the number of employees**

This may be necessary in order to implement cost savings, improve efficiencies or respond to new priorities. This can result in redundancies from existing roles and

redeployment into new roles. In some situations it will also result in termination of employment by reason of redundancy.

### **3. Minimising the impact of organisational change**

Whilst change is often essential, and can benefit all stakeholders, it is disruptive. It can be a difficult time for all involved – managers, affected employees, their families and their representatives. The Trust wishes to minimise the disruption and difficulties that organisational change can cause. This can be achieved by:

- A best practice approach to organisation planning
- Adequate information.
- Effective consultation.
- Support.

Identification of personal and professional development needs. These principles of good practice are influenced by the Trust's legal obligations, but will also be reviewed regularly to ensure compliance with best practice.

#### **3.1 Organisation planning**

It is important to take time to ensure that any proposed changes have been properly thought through, and in particular that they represent the Trust's commitment to equality and diversity.

Set out below is a brief outline of a range of approaches. They are not in order of priority, nor will they suit every set of circumstances. Before pursuing any of these approaches or developing alternatives, professional advice from the Trust's HR team and guidance must be sought.

In developing the preferred approach, managers will need to consult with recognised trade union representatives and affected employees in order to seek to agree the way forward.

- Consider establishing a transition plan, from the existing to the new structure. This should be clear and transparent. It may provide for the following:
  - “Red-circling” jobs that are effectively the same in the proposed structure as in the existing structure. Here a “match” may be taken as a job that is broadly the same in terms of grade and remit.
  - Consideration may also be given to a “ring fenced” selection processes, where staff may be invited to express preferences for jobs in the new structure, subject to the ring fence criteria; such applications must be assessed in an objective manner, which may include an interview process.
- Consider undertaking a skills audit – identifying those skills required for the jobs in the new structure and assessing the skills of staff within the current structure. To assist with this exercise, schools' leaders may want to use job and person profiles, detailing “essential” and “desirable” characteristics.
- Seek volunteers for redundancy. There is no obligation on the school to agree to any requests for voluntary redundancy – there may be grounds to reject any such requests, even if this means identifying others for compulsory redundancy.
- Consider other ways of reducing employment costs. This might involve the following:

- Reduce overtime working in the affected area to a level which still provides essential services;
- Review and restrict recruitment in the area affected and in those areas where possible staff surplus might be absorbed;
- Review all contracted or sub-contracted work in areas affected;
- Review the employment of temporary agency staff;
- If compulsory redundancies are unavoidable then use objective and appropriate selection criteria. These should be designed to allow reasonable objectivity and could be weighted to the priorities for the restructure. Such criteria may include: performance, attendance (disregarding pregnancy, caring for dependents or disability related absences); and disciplinary records. Use of the principle of “last in, first out” (LIFO) is not appropriate.

The Trust’s redeployment procedures offer staff further opportunities for redeployment.

### **3.2 Adequate information**

Information facilitates the consultation process. Good communication can reassure staff during periods of change and uncertainty. Written communication is particularly important because it allows employees to reflect on proposals and seek advice from others before responding. The method and frequency of communication that schools’ leaders choose will depend on circumstances. Team meetings, newsletters and e-mails may all be appropriate.

When organisational change is proposed, the school should provide as much information as it can, as early as it can. Recognised unions will be provided with the information that they need to respond to employees’ questions and comments, and engage the school’s leaders in a robust and productive dialogue.

Where collective redundancies are proposed, the school should comply with its statutory obligation to provide information on the following:

- The reasons for the proposal to make redundancies;
- The number and description of staff whose job security might be at risk;
- The total number of employees of any such description employed by the school;
- The proposed method of selecting employees for redundancy;
- The proposed method of implementing any staffing changes;
- The approach to calculating redundancy payments.

### **3.3 Effective Consultation**

The school will involve recognised unions whenever it is appropriate to do so. This will particularly be the case where redundancies may result.

The school will seek to involve recognised trade unions where relevant employees are affected by the proposed change.

The law states that recognised Trade Unions have the right to be collectively consulted when an employer proposes to make 20 or more employees redundant at one establishment over a period of 90 days or less. Employers should also consult individual employees, as a Tribunal may find it unfair if employers only consult unions and not individuals.

It is the policy of the Trust to consult as early in the process as possible. Advice and guidance must be sought from the Trust's HR team whenever there is a proposal at any of its schools to make changes which may result in redundancies or other significant changes to individual roles and/or terms and conditions of employment.

The consultation should be undertaken with a view to reaching agreement over ways of:

- Avoiding the dismissals;
- Reducing the numbers of redundancies; and
- Mitigating the consequences of the dismissal.

The school will also seek to engage employees individually. Making sure that employees have an adequate opportunity to comment upon the school's proposals is vital to ensuring that the right decision is taken and then implemented.

Individual meetings with affected staff will usually be undertaken. Such meetings are essential where the employee may be dismissed, whether by reason of redundancy or otherwise. Schools' Leaders and the Trust's HR team will jointly conduct such meetings, and trade unions will be involved where appropriate. The individual employee must be invited to the meeting in writing, and has the right to be accompanied by a trade union official or colleague. Whilst there is no legal obligation on the school to allow friends or relatives to attend, friends and relatives can attend where appropriate, and at the discretion of the school. The meeting will usually deal with the following:

- The reasons why the employee may be affected by any planned change (including, where appropriate, information about selection for redundancy).
- The employee's aspirations, and how these may be affected by the proposed change;
- Any alternatives that the employee can see to the proposed change;
- Any opportunities for redeployment, including information for and about the redeployment process;
- Queries relating to work or domestic situations;
- Possible retraining opportunities;
- Arrangements that will apply if their employment is terminated (financial arrangements, appeals, time-off work, references etc).

If an employee is dismissed by reason of redundancy they will have the right of appeal against the decision.

It is accepted that there may be occasional sensitive business or operational needs where it is inappropriate that employees being dismissed for redundancy are expected to work the period of notice to which they are entitled. Under these circumstances, the employee may be put on special paid leave for the duration of their notice period.

Any situation of potential special leave must be determined before staff are made aware of their selection for redundancy, and the decision to apply special paid leave must be discussed by the school's leadership and the Trust's HR team with the recognised trade union(s) before staff are placed under notice of redundancy. The dignity of staff is at all times of the highest priority in such circumstances, and a protocol governing the process will need to be in place where staff are required to leave the workplace immediately.

#### **4. Support**

In redundancy situations, there must be individual interviews with staff whose employment is at risk (see above under "Consultation").

Staff should be reminded of the school's confidential Employee Assistance Programme and of the availability of support from trade union representatives, where appropriate.

The Trust's HR team will provide guidance on policy and implementation in support of schools' leaders leading an organisational change programme, and the level of support required will usually be agreed in advance.

#### **5. Redundancy**

Not all organisational change will result in redundancy. Employees are only dismissed as redundant if their dismissal is entirely or mainly because:

- The Trust, or the employing school has or will cease carrying out the service for which the employee was employed;
- The Trust, or the employing school has or will cease carrying out the service in the place where the employee was employed;
- The Trust's or the individual school's need for employees carrying out work of a particular kind has or will cease or diminish; or
- The need for employees to carry out work of a particular kind in the place where they are employed has or will cease or diminish.

In practice redundancies occur where a re-organisation of the staffing structure of the Trust's central team or an individual school results in a reduction in the number of employees required to do that work, or in a significant change to the nature of the work performed by the affected employees.

Redundancy may also occur when a fixed term contract, or a series of temporary contracts, expires without renewal.

#### **6. Selection for redundancy**

It may on occasions be necessary to reduce the numbers of a particular type of job, or where many employees have similar skills. In such cases it will be necessary to select which employees are to be made redundant. When selecting staff for redundancy, the Trust or the individual school will take the steps set out below. Not all the steps will be applied in every case. This will depend upon the most appropriate application according to the circumstances of the redundancy situation.

#### **Ask for Volunteers**

Whilst this might seem the most reasonable way to select employees for redundancy, there are a number of disadvantages that must be taken into account.

- Volunteers may be the very employees the employer would most like to keep in terms of skill and experience;
- Voluntary redundancy can be expensive, because longer-serving employees are likely to volunteer thus attracting higher redundancy payments;
- If more employees volunteer than are required, the selection procedure applied amongst the pool of volunteers must also be fair

### **Assess according to Skills, Qualifications or Competencies**

It is essential that a balance of skills, qualification or competencies remain within the workforce to satisfy future operational needs of the Trust and/or the individual school. As regards selection criteria for redundancy, it is not feasible to use only Performance Management Review outcomes for this purpose. There is an element of subjectivity and possible inconsistency between different managers' assessments that make it difficult to rely on Performance Management Review assessments.

### **Staff who are not employees**

The work of staff who do not meet the "employee" definition, such as self-employed or agency temporary workers will be assessed first to establish whether employees at risk of redundancy have the skills, qualification or competencies to undertake those roles. Care will be taken to ensure that, particularly in the case of temporary staff, employment protection rights are not being breached by virtue of the temporary status of their employment.

### **Attendance and Disciplinary Records**

Current disciplinary records and levels of attendance may be assessed when selection for redundancy is necessary. The Absence Management Policy in operation in the Trust at the time of redundancies will form the basis for assessing levels of attendance.

Attendance records will normally be taken into account on the basis of patterns over the 12 months preceding the notification to the recognised trade unions of the possible redundancies.

Absence that has been covered by medical certification will not be taken into account for the purposes of selection for redundancy, but absences which are uncertified or self-certified will count. Care must be taken to ensure that no discrimination under the Equality Act 2010 occurs: for example, sickness absence linked to pregnancy, gender reassignment and disability should not be taken into account in selection processes, and that authorised absence is excluded from the calculation, including antenatal appointments, pregnancy, maternity, paternity and parental leave.

Attendance records must not be used where all the employees within the group at risk of redundancy have very low absence records. Other selection criteria would be applied and hold greater weight in such circumstances.

As regards disciplinary records, only live disciplinary warnings will be used. An assessment of the level of disciplinary action against the employee will be made to assist in determining redundancy selection alongside the other selection procedures.

### **The matrix approach**

In some cases it may be appropriate to use a matrix, scoring employees over a variety of factors, such as those set out above.

### **Primacy for those on maternity leave**

Women who are redundant whilst on Statutory Maternity Leave have special rights in law, known as “primacy”. For the duration of any coinciding maternity and notice periods (i.e., not during redundancy consultation, unless selection processes are occurring during the consultation), they have the right to be offered any “suitable alternative employment” in the Trust’s central team or individual school (as applicable), without having to go through a selection process or interview. This is even if there are other employees that might be more suitable for the job. This is because it is recognised that women who are about to or who have just given birth will find it hard to engage with a standard selection exercise.

Primacy does not constitute unlawful discrimination, as it is a legislative requirement to enable women to continue in the workplace, and because the protection on the grounds of pregnancy and maternity does not protect those who are not pregnant or new mothers

### **7. Avoiding redundancy dismissals**

The principles of good organisation planning, and informing and consulting stakeholders, will assist in minimising redundancies. However, there will be times when redundancies are inevitable. In such cases it is the policy of the Trust to seek to secure alternative employment for affected staff wherever possible.

There is no strict definition as to what is or is not suitable alternative employment. However, there will be a presumption that a job is suitable where the alternative post:

- Requires broadly similar skills and knowledge as those required of the redundant post, even if some degree of training or familiarisation is required.
- Is based at the same location as the redundant post, or where there is little or no disruption to the individual caused by additional travel to and from work.
- Is the same or similar grade to the redundant post. For Support staff, the Trust will regard “similar” as being one grade above or one grade below the redundant post.

### **Salary Protection**

#### **Teaching Staff**

Salary protection will apply in accordance with the provisions of the current School Teachers’ Pay and Conditions Document (“the Document”).

#### **Support Staff**

Salary protection will apply to Support staff that are declared redundant by the Trust or one of its schools and who are redeployed into a post one grade lower. It may also apply in some re-organisations where formal redundancies do not arise. Each case will be the subject of discussion with the employee affected. Salary protection will not usually apply in the case of redeployments for other reasons (e.g. as a result of injury or ill health) or as a result of grade changes (e.g. following national or local evaluation, where there is no change in job content.). Where other significant terms and conditions other than salary may be lost as a result of redeployment, protection will be determined on a case-by-case basis.

Where an employee is redeployed into a lower graded job in circumstances in which salary protection would apply, immediate (enhanced) pension benefits will not be paid.

Support staff eligible to receive salary protection, will have their basic pay frozen, for no longer than three years.

Staff whose salaries are to reduce as a result of redeployment, and who are members of the Local Government Pension Scheme, may be entitled to a certificate of protection of pension benefits, which can remain in force for 10 years from the date of protection. Usually, pension entitlement is based on the level of pay during the last year of service, or on one of the two previous years' pay if that amount is higher. However, staff in receipt of a certificate may elect to base their final pay on any of the last 5 years of their service or on the annual average of any three consecutive years falling within the last 13 years.

For protection purposes the mid-point salary will be considered the official redeployment grade maximum for calculating protection costs.

## **8. Travel and Disturbance**

In situations of obligatory redeployment covered by this policy, travelling and (where appropriate) disturbance assistance will be given where the new place of work is at least five miles further from home. In the case of shorter distances, but where the new travel arrangements represent particular hardship, the Trust or individual schools' leaders may exercise discretion on a case-by-case basis.

An employee who unreasonably refuses the Trust's or individual school's offer of suitable alternative employment will not be entitled to the redundancy benefits outlined below.

## **9. Trial periods**

An employee who accepts an offer of alternative employment will be given a minimum trial period of four weeks, (or such longer period as may be agreed with the Trust or individual school's leaders) to give them an opportunity to assess its suitability.

If, at the end of that trial period, the employee decides that they do not wish to accept the position permanently then they will not lose any entitlement to redundancy payments or early retirement unless, in the opinion of the Trust or individual school's leaders, the employee has unreasonably refused to continue with that job.

The Trust or individual school may also terminate a trial period if it believes that the employee's performance in that role is inadequate. The employee will not be entitled to redundancy payments or early retirement unless the Trust or the individual school's leaders are satisfied that the job was unsuitable for them, taking into account the skills and experience that they possess and after considering the availability of training. In appropriate cases the Trust and/or the individual school's leaders will follow the Trust's Capability Procedure.

## **10. Redundancy - Financial Arrangements**

### **10.1 Early retirement**

#### **Teachers**

Teaching staff who are 55 years or over when their redundancy takes effect are eligible for premature retirement. However, this does not mean that they are entitled to claim premature retirement.

When they reach the age of 60 they are entitled to receive their pension, but for those between the ages of 55 and 60, premature retirement (with or without enhancement) is a discretionary matter for employers to decide, rather than an automatic right.

According to pension regulations, when a worker in England and Wales is granted premature retirement before the age of 60 (whether on grounds of redundancy or 'efficient exercise'), the employer must pay a proportion of their pension for life.

The decision whether to grant a teacher premature retirement by reason of redundancy before the age of 60 will depend upon the operational needs of the Trust and/or the individual school. The need to maintain the highest standards of teaching and learning will be the priority consideration in such decisions.

## **Support Staff**

If there is a compulsory redundancy situation of a member of the Support Staff aged 55 and over (and the employee is a member of the Local Government Pension Scheme (the "Scheme")) then early retirement may be granted. If granted, the employee(s) will be eligible to receive pension benefits under the Scheme. Whilst the Trust and/or individual schools' leaders will act in accordance with the Scheme Rules, the Trust and/or individual school's leaders will take into account the following when deciding whether or not to certify that an employee is entitled to immediate benefits because of their redundancy:

- The financial implications to the Trust and/or the individual school;
- Prospects of redeployment within the school or the wider Trust.

## **On other grounds**

There may be circumstances where the Trust or the individual school's leaders judge it necessary, in the interests of the efficient exercise of its functions, to offer premature retirement to employees, even if the circumstances do not match the definition of redundancy.

Any such offer of premature retirement is at the sole and absolute discretion of the Trust or individual school's leaders.

## **10.2 Approvals**

Early retirement is always subject to the prior approval of the Trust. Where an employee wishes to consider early retirement, an application must be made to their Headteacher in the first instance who will arrange, through the Trust's HR team, for an estimate of pension entitlement to be calculated. HR will discuss the estimate with the employee where the employee so wishes. An application for estimates, and the provisions of the estimate, implies no commitment by either party.

The Trust or individual school's leaders will decide whether to approve any early retirement according to the needs of the school and/or the wider Trust and affordability.

## **10.3 Statutory Redundancy Pay**

The amount of **statutory** redundancy pay to which an employee is entitled depends on their age, length of service and pay. The entitlement is:

- Half a week's pay for each complete year of service up to age 21;
- One and a half weeks' pay for each complete year of service after age 41;
- One week's pay for each complete year of service between ages 22 and 40.

The maximum length of service taken into account to calculate a redundancy payment is 20 continuous years. An employee must have at least two continuous years of service to be entitled to a redundancy payment.

For the **statutory** redundancy payment a week's pay is capped at the statutory maximum, which is increased in February each year.

#### **10.4 The Trust's Compensatory Award**

##### **All Staff**

In addition to the statutory redundancy payment calculated as above the Trust enhances payments to employees by basing the payment on an actual weeks pay and not limiting it to the statutory maximum.

##### **Support Staff**

In the case of Support Staff, the Trust will also multiply the amount calculated using the actual weeks' pay by 1.5 times.

##### **Statutory Deductions**

Subject to statutory requirements, redundancy payments may be paid without deduction of tax or National Insurance Contributions.

When calculating redundancy payments, professional advice and guidance must be sought from the Trust's HR team.