



## Managing Change Policy

Author	A Gay / C Bowyer	Source	BCC Policy
Approved By	FARR Committee	Status	Statutory
Last Review	May 2024	Next Review	May 2027

### Details of Policy Updates

Date	Details
May 2024	Review frequency changed to triennial
	Section 6 Changes made to incorporate legal requirements of Protection from Redundancy (Pregnancy and Family Leave) Act 2023 relating to the selection process and ringfences in the management of change process.

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## 1. Introduction

The Trust is continuously required to review the way in which it provides education and services. This policy sets out the principles for managing organisational change that affects employees in circumstances where:

- Roles and responsibilities in the Trust are being re-aligned.
- The size of the workforce in the Trust is being reduced.
- Redeployment and redundancies may occur as a consequence.

The principle underlying this policy is that the CEO should consult with employees meaningfully with a view to reaching an agreement within the timescale for the review / restructuring.

## 2. Scope

This policy applies to all employees except:

- Employees on fixed term contracts where the reason for the expiry of the contract is not redundancy;
- Supply, agency teachers / workers and contractors and persons engaged by the Trust who are 'self-employed';
- Casual employees where there is no 'mutuality of obligation' to provide / accept work by either party; and
- Temporary and fixed term staff where they have less than two years' continuous employment with the Trust.

This policy does not apply to school closures or amalgamations.

## 3. Authority to Change the Workforce/Staffing Structure

The Trust is responsible for determining the staffing structure across the Trust. The Trustees/local governing body should agree all proposals to change the staffing structure prior to any change being implemented (i.e. should be agreed at a quorate Trust Board meeting).

Where a change of structure will result in a loss of posts the Trustees/ governing body will determine whether the Voluntary Severance Scheme will be available. This will be done on a case-by-case basis.

All proposals will be properly costed, including any potential redundancy and early retirement costs. All costs will be met from the Trust's budget.

The Trustees/ governing body will delegate the management of the process to the CEO/headteacher.

In any case, where an outcome may be dismissal the case will be heard by the person/s with the authority to dismiss as defined by the law. This is set out specifically in the Trust's scheme of delegation as a panel of governors/ Trustees or the CEO.

#### 4. Management Responsibilities

The CEO/headteacher leading and managing the organisational change must ensure that the following measures are implemented:

- That this policy is followed at all stages.
- That there is a business case, which sets out the basis for the proposals including anticipated improvement/benefits, risks, estimated costs, timescales and assessing any implications for under-represented groups.
- That advice and support is obtained from the school's HR adviser on managing the change process.
- That employees and nominated trade union representatives are notified of the proposals for change in writing.
- That consultation meetings are held with a view to seeking agreement on the proposals, any selection criteria for workforce reductions and the methods of appointment / ring-fences to jobs in the new structure.
- Statutory consultation periods must be complied with if redundancies are anticipated. There is a minimum of 30 days' consultation required where 20 or more employees are at risk of redundancy. For fewer than 20 employees, meaningful consultation must still be undertaken.
- That there is appropriate help and guidance (as identified by employees or their representatives) to support staff through the change process and that effective communication arrangements are in place.
- That, in the case of redundancies, consultation with employees and trade unions complies with the law.
- The necessary new job documentation is produced.
- Due regard is given to the right of women to return to work following maternity leave.

#### 5. Methods of Appointment

Posts will be defined following consultation by one or more of the following classifications:

- **Unchanged** – where the job content is little changed from the existing job role and the employee will not be displaced, unless the number of posts is reduced.
- **Changed** – where the job content is significantly different from the existing job role and where selection criteria / a ring-fence / appointment process will apply.
- **Deleted** – where a service or work of a particular kind is being discontinued or reduced (see employment law definition).
- **New** – a new job where there is no equivalent in the current structure. New posts may be the subject of ring-fence arrangements.

Employees and trade unions will be advised of their classification, as part of the consultation process.

## 6. Selection Processes and Ring-fences

Ring-fencing is the grouping of employees who have not been automatically matched to a new position to available vacancies within the new structure. Consideration will be given to comparing the job duties and grade of the new/vacant posts with the job currently undertaken by the employee(s).

Any decision to exclude or include a post holder in a ring-fence must be justifiable in objective terms and with all evidence available to support the decision.

Only post holders at risk of redundancy will be included in ring-fences.

Normally employees will only be ring-fenced to jobs at the same grade as their existing job. In some cases, however, it may be appropriate to allow employees to be included in a ring-fence for jobs one grade above or below their existing job grade.

Employees who are in a ring-fence will be required to undergo a selection process. This can be undertaken using one or more of the following objective selection methods based on the requirements of the school development plan and the needs of the service:

- On a competitive basis through an interview and / or appropriate assessment method.
- Performance management judgements that are below a satisfactory performance level.
- Live disciplinary warnings.
- Live sickness absence warning on file, taking into account any adjustments made under the Equality Act.

Where there is only one employee in the ring-fence, there will be a suitable alternative employment meeting to determine whether their skills and experiences match the essential requirements of the job. This provision can also be extended to ring-fences of two candidates for two jobs, three for three etc.

### **Protection from Redundancy (Pregnancy and Family Leave) Act 2023**

An employee at risk of redundancy whilst pregnant, or on maternity leave, adoption leave or shared parental leave, and for 18 months following the date of birth/placement date (providing at least six consecutive weeks taken in the case of SPL) must be offered a suitable alternative vacancy where one exists. This protection applies to employees who have suffered a miscarriage after 24 weeks. Employees whose pregnancy ended before 24 weeks are protected for two weeks after the pregnancy ended.

## 7. Alternative Employment and Redeployment

Employees unreasonably refusing an offer of potentially suitable alternative employment may forfeit redundancy pay (if applicable).

Employees are entitled to a four-week statutory trial period where starting a different post (new or changed job) within four weeks of the end of their previous job. This enables both the employee and the line manager, in consultation with the headteacher, to determine whether, or not, the employee is suitable for the post.

The line manager, in consultation with the headteacher, and the employee can agree an extension to the four-week statutory trial period before its start for the purposes of training.

## **8. Pay Protection**

A post that is not more than a 20% reduction in pay is a suitable alternative post. Where acceptance of a post will result in a more than 20% reduction in pay, an employee retains the right to a redundancy payment.

### **8a. Support Staff (i.e. not covered by STPCD):**

Where an employee is

- offered and accepts a 'suitable alternative post';
- displaced;
- redeployed into a lower graded post;
- medically redeployed into a lower graded post; or
- whose post is downgraded under job evaluation

and their contractual pay reduces and they have not received a redundancy payment, their contractual pay will be protected. This includes basic pay plus any contractual enhancements.

An employee's contractual pay is based on their grade and hours of work ie the full difference in pay between the current contractual pay and the contractual pay of the alternative post that has been accepted. Please see paragraphs below on increasing and reducing hours.

The employee's contractual pay will be frozen at this protected amount for either two years or until their contractual pay in the new post would meet/exceed their current contractual pay, whichever the sooner.

Pay awards and increments will not be payable during the period of protection.

Appointments where pay protection applies will always be made to the top spinal column point of the grade, and pay protection will then be calculated. The employee will be paid at the top spinal column point of the grade for the post once the period of protection ends.

Where an employee obtains a new job, at a higher grade, during the pay protection period, they will continue to receive their pay protection, subject to the provisions set out above.

### **8b. Increasing Working Hours During the Period of Pay Protection**

Where an employee's working hours in the post increase, either upon commencement, or during the period of pay protection, the additional hours will be paid at the unprotected rate for the job. This includes overtime payments which will be paid in accordance with the employee's conditions of service.

### **8c. Decreasing Working Hours During the Period of Pay Protection**

Where an employee reduces their working hours on a voluntary basis on commencement of the new post or during the period of protection, their contractual pay (including the element of protection) will be reduced accordingly (on a pro rata basis).

### **8d. Where Former Contractual Hours of Work are Subject to Pay Protection**

An employee who receives pay protection because their hours of work have been reduced, may be required to undertake additional duties during the pay protection period up to the level of their previous contractual hours without additional payment.

### **8e. Employees Subject to Schools Teachers' Pay and Conditions Document:**

Employees subject to School Teachers' Pay and Conditions Document, who are redeployed into a lower graded job covered by the document, will receive pay protection in accordance with the provisions of the document.

Such employees may be required to undertake additional duties during the pay protection period in accordance with the provisions of the document.

## **9. Representations & Disputes and Appeals**

Any employee at risk of dismissal has the right to make representations against the proposal to the dismissing body before the final decision is taken.

If, following the implementation of change, an employee is dismissed on the grounds of redundancy they will have a right of appeal against the dismissal.

An appeal must be lodged with the Clerk of Governors within five working days of receiving written confirmation of dismissal. The employee must set out the grounds for their appeal specifying whether it relates to:

- The way the procedure was followed
- That selection was unfair

Appeals will be heard by a panel of three governors/trustees who have not previously been involved.

## **10. Redundancy Payments and Early Retirement**

If an employee is dismissed on the grounds of redundancy they will be eligible to receive a redundancy payment provided they have the required length of service.

If the employee is aged 55 or over and a member of the Local Government Pension Scheme they will receive their occupational pension, if they meet the qualification requirements of the scheme. In respect of members of the Teachers' Pension Scheme, the employer has discretion to allow early release of pension if the teacher is aged 55 or over.

Redundancy payments and the circumstances in which employees can access their occupational pension are set out in the Trust's Discretionary Pensions and Severance Policy.

## **11. TUPE**

Change management may involve partnership working or the externalisation of services, in which event the CEO should seek advice from the Trust's HR adviser.

## **12. Outcome**

Working with staff and trade unions to achieve an agreed outcome is beneficial. In some instances, however, agreement with staff and the trade unions will not be possible, and in these circumstances managers should explain their reasons for not accepting alternative proposals and proceed to the implementation stage.

## **13. Other Relevant Policies and Procedures**

- NSAT Pay Policy
- NSAT Discretionary Pensions and Severance Policy