



**The Spencer
Academies Trust**



Redundancy and Restructure Policy – March 2017

The Local Governing Body of Long Field Academy adopted this policy on 22nd May 2017. It will be reviewed annually by the Trust Personnel Committee no later than 31 March 2018.

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1 Introduction

- 1.1 This policy applies to all Academies within The Spencer Academies Trust. The Directors may approve a transitional policy for recently converted Academies in exceptional circumstances. The Scheme of Delegation for each Academy within the Trust outlines the delegated responsibility for staffing matters and the pay and conditions of all staff.
- 1.2 This policy has been developed taking into account the requirements of both education and employment legislation and recognises ACAS guidance. in force at the date of the adoption of the policy. This policy sets out the Academy's procedures for the management of a reduction in employee numbers/costs and/or changing contractual terms in a fair and consistent way.
- 1.3 It is the Local Governing Body's intention to develop and expand the activities of the Academy in a manner which results in secure employment for all employees. The Academy will always try to avoid the need for compulsory redundancies but sometimes these may be necessary. The pattern or volume of the Academy's needs or methods of working may change and requirements for employees may reduce or change.
- 1.4 The Principal or their appointed representative, supported by the Trust HR Manager will be responsible for managing the procedure. References to Principal include the Chief Executive Officer (CEO) and the Senior Leader responsible for each Academy, as appropriate, considering the management structure of the Academy or appropriate Trust employed operational support lead.
- 1.5 In the case of a re-structure where the reduction may involve the post of Principal or the Senior Leader responsible for the Academy, the CEO supported by the Chair of Directors of the Trust or their appointed representative and the Trust HR Manager will be responsible for managing the procedure.
- 1.6 Guidance on managing staffing reductions and changes to contractual terms is available from the Trust HR Manager who must be consulted before commencing these procedures.

2 The purpose of the policy

The purpose of this policy is to ensure that, whenever a reduction in employee numbers, costs or changes to contractual terms may become necessary the Principal or their appointed representative will:

- (a) Document the criteria and process used in selecting employees for redundancy, loss of hours, grade or to deployment to new or changed posts depending on the circumstances and the particular needs of the Academy at the time
- (b) communicate clearly with all affected employees and ensure that they are treated fairly
- (c) try to seek employees' express agreement to the new terms and thus avoiding terminating employment and offering re-engagement on new terms
- (d) try to find ways of avoiding compulsory redundancies
- (e) consult collectively, if appropriate, and/or individually with employees and employee representatives Consider the representations made during the consultation

- (f) ensure any selection for compulsory redundancy is undertaken fairly and reasonably.

3 Avoiding compulsory redundancies

3.1 Where the Local Governing Body is proposing to make redundancies the Academy will enter into consultation with all affected employees on an individual basis and, where appropriate, also with employee representatives.

3.2 In the first instance consideration will be given to steps that might, depending on the circumstances, be taken to avoid the need for compulsory redundancies. Examples of such steps include:

- (a) reviewing the use of agency staff, self-employed contractors and consultants
- (b) natural turnover and resignations
- (c) reviewing fixed term contracts
- (d) restricting recruitment in affected categories of employee and in those areas into which affected employees might be redeployed
- (e) reducing overtime, in affected departments, to that needed to provide essential services
- (f) freezing salaries for a specified period
- (g) considering the introduction of short-time working, job-sharing or other flexible working arrangements, where these are practicable
- (h) identifying suitable alternative work with the Academy or with any other Academy within The Spencer Academies Trust that might be offered to potentially redundant employees
- (i) inviting applications for early retirement, or voluntary redundancy. In all cases considering applications for retirement and/or redundancy will be a matter of discretion. The Trust and Local Governing Body reserves the right to refuse an application where it is in the interests of the Academy to do so.

3.3 Any measures adopted must not adversely affect the Academy or its ability to serve the students' needs.

4 Making compulsory redundancies

4.1 When it is not possible to avoid making compulsory redundancies, all affected employees and, where appropriate, employee representatives will be advised that compulsory redundancies cannot be avoided.

4.2 There will be consultation on the procedure to be followed and the criteria that will be applied. The criteria used to select those employees who will potentially be made redundant will be objective, transparent and fair and based on the skills required to meet the existing and anticipated needs of the Academy and the wider Trust.

4.3 Those employees who have been provisionally selected for redundancy will be consulted with individually at a redundancy meeting. Notes will be taken at the meeting and a copy sent to the employee.

4.4 The letter should set a time and date for the employee to attend a meeting giving 10 working days' notice of the meeting

- (a) The letter should also confirm that the employee has the right to be accompanied by a companion who may be a colleague or a trade union representative.
 - (b) The letter should repeat the basis for the proposed redundancy and respond to any representations from earlier consultation meetings.
 - (c) The letter should also make clear that any decision to terminate the existing contract will be on notice.
- 4.5 Where selection for redundancy is confirmed, employees selected for redundancy will be given notice of termination of employment. Where appropriate this will include written confirmation of the redundancy payment. Employees will be given the opportunity to appeal against this decision.
- 4.6 Redundancy payments will be based on statutory provisions in force at the time.
- 4.7 Teachers, who are members of the Teachers' Pension Scheme (TPS) can, take their Actuarially Adjusted Benefits (AAB) benefits from the age of 55 up to the age at which they are eligible to take their Normal Pension Age (NPA) benefits.
- 4.8 Support staff that are members of the Local Government Pension Scheme (LGPS) and are aged 55 or over must take their pension benefits, on redundancy. The employer will be responsible for any pension contribution payable to the LGPS.
- 4.9 The Trust HR Manager will continue to work with the Principal and employee(s) to look for alternative employment and inform employee(s) of any vacancies across the Trust until the termination of employment. The manner in which redundant employees will be invited to apply for and be interviewed for vacancies will be decided upon depending on the circumstances existing at the time. Alternative employment will be offered subject to a trial period.
- 4.10 Employees under notice of redundancy will be entitled to take up to 3 days of paid time off work to look for alternative employment or to arrange training for future employment.

5 **Changing employees terms and conditions of employment**

- 5.1 Following informal meeting(s), the consultation process and after the date has passed for voluntary acceptance if all the affected employees has agreed to the changes and signed agreement has been received the process can be concluded and new contracts issued. However, if there are still objections those employees who continue to object should be consulted with individually. Notes will be taken at the meeting and a copy sent to the employee.
- 5.2 The letter should set a time and date for the employee to attend a meeting, giving 10 working days' notice of the meeting and confirming that the employee has the right to be accompanied by a companion who may be a colleague or a trade union representative. The letter should repeat the basis for the proposed changes to the employee's terms and conditions of employment and respond to any representations from earlier consultation meetings.
- 5.3 At the meeting the Principal will:
- (a) Respond to any employee representations made
 - (b) Note any further representations made in response.

- (c) Inform employees that, if agreement cannot be reached at the end of this process, notice will be served under existing contracts which will be followed immediately by an offer of reengagement under the new terms.
- 5.4 During the formal consultation period the Principal will consider any further representations made and hold individual meetings where appropriate. If it is decided the changes should still go ahead the Principal will write to employees setting a deadline for obtaining written agreement to the new terms and stating that, if agreement is not obtained by that stage, their employment will be terminated for a refusal to agree to the change and employment offered on new terms
- 5.5 The employee will receive written notice of the termination of employment:
- (a) Giving due notice under the contracts of employment and stating that the new terms will take effect on the expiry of the notice period.
 - (b) Enclosing the offer of employment on revised terms and requesting written agreement to the new terms before the date on which they are intended to take effect.
 - (c) Offer the employee the right of appeal against the decision to terminate the original contract.

6 **Appeals**

- 6.1 Employees may make an appeal against the decision to dismiss them by reason of redundancy or to vary their terms of employment in writing within five working days of the date of the written confirmation of the dismissal or the termination of their employment and offer of re-engagement on new terms, stating fully the grounds of their appeal.
- 6.1.1 The protocol outlined in the disciplinary policy will be followed to hear any appeals where the appeal is on the grounds that the hearing was allegedly procedurally flawed. In other cases, the appropriate person may review the original decision based on the paperwork and the contents of the appeal.
- 6.2 An appeal meeting will be arranged without unreasonable delay and, where possible, at an agreed time and place. Written notice of the date, time and place of the appeal meeting will be given to the employee. The employee will be informed of their entitlement to be accompanied at the appeal meeting by a companion who may be a colleague or trade union representative.
- 6.3 The appeal will be dealt with impartially and, wherever possible, by individuals who have not previously been involved in the case. The appeal may be refused or upheld. The final decision will not be given at the appeal meeting but confirmed in writing, if possible within 10 working days of the appeal meeting. There will be no further right of appeal under this or any other Academy policy.
- 6.4 Notes will be taken and a copy sent to the employee.
- 6.5 The date of dismissal by reason of redundancy will not be delayed pending the outcome of an appeal. However, if the appeal is successful, the decision to dismiss will be revoked with no loss of continuity or pay. Any redundancy payment already made must be returned.

7 **Employment following Redundancy**

- 7.1 Redundancy payments must always be considered as an indication of a break in continuous service. Therefore employees who secure alternative employment

during the redundancy process will not be entitled to redundancy payments where service is recognised as continuous under the Redundancy Payments (Continuity of Employment) Order or subsequent amendments.

General Principles Underlying This Policy

Confidentiality and data protection

Confidentiality is an important part of the procedures provided under this policy. Everyone involved in the operation of the policy is responsible for observing the high level of confidentiality that is required. Details of the matter must only be disclosed on a "need to know" basis.

Information about flexible working procedures may be placed on the employee's personnel file, along with a record of the outcome and of any notes or other documents compiled during the process. These will be processed in accordance with the Academy's Data Protection Policy.

Breach of confidentiality may give rise to disciplinary action under the Academy's Disciplinary Policy.

Consistency of Treatment and Fairness

The Spencer Academies Trust and Local Governing Body are committed to ensuring consistency of treatment and fairness and will abide by all relevant equality legislation.

Delegation

The Scheme of Delegation sets out the rules in respect of the delegation of functions by Trust Directors, CEO, Local Governing Bodies, Principals or other senior leader responsible for the Academy.

Grievances

Where a grievance is raised during the procedure, and that grievance has relevance to the procedure, the process may be temporarily suspended, if appropriate, until the grievance has been resolved or answered. In the situation where there is more than one grievance from the same person these will be heard together. If a grievance restates a complaint they have already raised and had heard or dealt with in the past, they will be asked to explain how the new grievance differs, what new incident has occurred and/or what new evidence has come to light. Where it is clear that there is nothing new being raised the grievance can be rejected without a formal grievance meeting.

Monitoring and Evaluation

The CEO, Local Governing Body and Principal will monitor the operation and effectiveness of the Academy's arrangements for the management of a reduction in employee numbers.

Sickness

If long term sickness absence appears to have been triggered by the commencement of the procedure, the case may be dealt with in accordance with the Academy's Attendance Management Policy. The employee may be referred, if appropriate, to the occupational health service in order to assess their health and fitness for continued employment and the appropriateness or otherwise of continuing with formal procedures.

Equality Impact Assessment (EIA)

An Equality Impact Assessment (EIA) has been completed in relation to this policy.