

School Employment Manual

Managing Change

This guidance document applies to all Community and Voluntary Controlled Schools and is advisory for Foundation and Voluntary Aided Schools.

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Background

The Managing Change guidance document supports schools with their need to undertake workforce planning and to provide a fair and transparent process when undertaking staffing reductions. This document is part of a process that includes the Staffing Reduction Panels and Redeployment Scheme for Schools Based Staff.

Introduction

Staff are the most important resource in any school and effective management of those staff is critical to the quality of outcomes for the young people in Lincolnshire. Schools need to be able to respond to changes in requirements such as those brought about by changes in pupil numbers or curriculum emphasis which may result in the need to plan for workforce changes and adjusting staffing structures.

This document is designed to assist Headteachers and Governors in the effective management of situations where a potential need to adjust the current staffing structure has been identified. Lincolnshire County Council (LCC) has responsibility for ensuring that any procedures for managing changes that may affect staffing requirements are carried out fairly and in accordance with statutory guidance. This document complies with current legislation and the Council's own procedures.

Principles

- Ensure that staffing reductions are only considered and implemented as a last resort and are based on reduction in pupil numbers, curriculum changes and/budgetary constraints.
- Where possible, utilise alternative methods to achieve staffing reductions.
- Enable staff to feel the process has been handled fairly, whatever the outcome.
- Ensure any reductions are achieved in line with statutory requirements.
- Ensure LCC monitors spend to reduce the impact of staffing reductions on future years' school budgets.

Roles and Responsibilities

Governors, Headteachers and Senior Leadership Team

- To attend the Staffing Reduction Panel to seek advice, guidance and approval for any staff reductions that will have a cost implication over and above a set amount.
- To provide a business case including financial, curriculum and staffing information, to inform the decision-making process.
- To access appropriate HR support as regards the application of a fair managing change process.

- To work collaboratively with LCC to enable redeployment where possible.

HR Providers

- To work closely with Governing Bodies and School Senior Leadership Teams to ensure that workforce changes are conducted in an appropriate manner.
- Monitoring and reviewing guidance.

Staffing Reduction Panel

- To provide the necessary scrutiny, advice and support to schools considering the need for future staffing reductions.

Education Reorganisation Officer

To oversee the Staffing Reduction process, including:

- Setting dates throughout the academic year for the Staffing Reduction Panel to convene
- Monitoring and reviewing the Redeployment Policy and Guidance for Schools

Other Associated Documents

Managing Change Quick Sheet (located in the [Managing Change Toolkit](#))
[Redeployment Scheme for Schools Based Staff](#)
[Fixed Term and Temporary Contracts Policy](#)

Managing Change Guidance

Alternative Methods of Staffing Reduction

Where there is a need to make changes to the existing staffing structure, it is important that other options are exhausted prior to entering into any formal redundancy process.

Natural Wastage

A forthcoming resignation, retirement may allow the school to reorganise and deliver work in a different way. Training needs also need to be considered if individuals are required to deliver work in a new way and/or undertake different roles within the school.

Flexible and Phased Retirement

Staff who are nearing retirement may wish to reduce their hours or level of responsibility. Consideration should be given by schools to whether they could support such a change. If it is agreed at school level (and County Council level for support staff) the individual can access part of their pension while continuing to work.

Restrictions on Recruitment

Where it is apparent that a future reduction in staffing will be required, Schools must think very carefully about advertising externally to fill a vacancy and consider the use of temporary contracts.

Interest of Efficiency Retirement

There may be situations where an interest of efficiency retirement may be appropriate to meet the future needs of the school and would avoid the need for future redundancy. This is applicable to employees aged 55 and over, with two or more years' pensionable service who then take approved retirement 'in the interests of the efficient discharge of the employer's functions'.

Each situation needs to be considered on its own merits and a case made to the Staffing Reduction Panel; there is no requirement to consult with Trade Unions. Lincolnshire County Council will consider cases in appropriate circumstances; an interest of efficiency retirement must allow the school to make clear financial savings which outweighs the cost of retirement through subsequent staffing restructures. Cases will not be considered if there is a current redundancy situation, where the requirement for work has diminished or ceased. It should be noted however that costs may be prohibitive and considered carefully before being considered as a possible option.

This is **not** a redundancy but is considered a dismissal on the ground of 'Some Other Substantial Reason' and needs to be agreed with the employee concerned, who, will still be afforded rights of representation and appeal. The employee may, if they wish, include their Trade Union at any point of the process.

Fixed Term and Temporary Contracts

Employees on fixed term and temporary contracts should not be treated any less favourable than permanent employees. Individuals on such contracts with 2 or more years' continuous service may be entitled to redundancy payment.

For the purposes of entitlement to redundancy payments; a period of continuous service includes service with other Local Authorities or a Community, Voluntary Controlled, Foundation and Voluntary Aided Schools, or other appropriate organisation.

Secondment

Secondments are a form of temporary contract; these are arrangements whereby a member of staff is temporarily relocated to another role within their school (internal) or to a post in another school (external), therefore reducing the financial pressure on a category of staff for a set period of time.

Please see the [Schools Fixed Term and Temporary Contracts Guidance](#) for further information.

Managing Change Process

Where all other options have been exhausted and there remains a need to make financial saving it may be that the school look to make changes to their current staffing structure. In such circumstances, there is a process to be followed. An overview of this process can be found in the Managing Change Quick Sheet; and should be used to help get an understanding of what is involved.

It is important that you discuss your proposals with your HR Provider and Schools Finance as soon as possible so that you have access to appropriate support.

Staffing Reduction Panel

Staffing Reduction Panels take place throughout the academic year; dates for panels can be found on the [Schools Employment Manual](#). It is important that Schools attend a panel date allowing good time for process to be completed and sufficient notice issued before the termination of contracts (this is particular important where changes are being made to Teacher staffing structures).

The panel consists of representatives from LCC's Finance, Education and HR teams and collectively they will review the information provided by the school to reach a decision as to whether the proposals should proceed.

The Head Teacher, supported by the Chair of Governors and/or School Business Manager will be required to submit documentation at least one week prior to the Staffing Reduction Panel, the required documentation includes:

- Business case, explaining the rationale for the proposed changes to the staffing structure. A copy of the business case can be found [here](#).
- A medium term (5 years) finance plan, reflecting before and after the proposals
- A staffing profile of all FTE (full time equivalent) staff (e.g. All redundancies, permanent and temporary appointments, all maternity leave, etc, which have taken place in the last 2 years)
- A class structure with staffing

At the Panel meeting, the Head Teacher will be invited to talk through the proposal and the Panel members will discuss any points of concern/clarification. The Panel's decision making will take account of:

- Any financial deficit
- Projected pupil numbers
- Action that the school have taken to alleviate financial pressures prior to seeking to change their staffing structure

Schools will receive an outcome letter confirming the decision of the Panel approximately one week after the Panel meeting.

Where there is only one post holder in scope of the reduction, and it is known the cost of that reduction would be £2,000 or less, these cases may be able to proceed without the need to attend Staffing Reduction Panel. In these circumstances, Schools should discuss this with their HR Provider before proceeding.

Please contact the Education Reorganisation Officer (currently Adrian Clarke, Tel: (01522) 553216, email: ady.clarke@lincolnshire.gov.uk) to arrange an appointment to attend any of the Staffing Reduction Panels.

Where a need to reduce staff has been identified and approved by the Staffing Reduction Panel, the Head Teacher would normally take responsibility for the process. This includes:

- Advising Governors of the need to make staffing reductions
- Leading on consultation with staff and Trade Unions
- Fair Selection of individuals for redundancy
- Hearing representations from Staff

Governors will have been advised of the need to reduce staffing, the number of staff in scope and the business case that underlies this; but they should not normally be involved with the procedure before any appeal hearing.

Consultation

If a potential redundancy situation has been identified there is a legal requirement that consultation takes place with individuals. Consultation with staff should start as soon as possible for those concerned, the key purpose must be to avoid redundancies wherever possible and to discuss how they can be implemented fairly, if ultimately, they become necessary.

The purpose of consultation is to explain the required changes, rationale and how the school propose to do this. This is a suggested approach however the consultation period is an opportunity for staff in scope to ask questions and put forward alternative methods for the school to consider.

If members of staff in scope of proposed changes are away from school due to sickness, maternity leave or an external secondment, they should still be included in every stage of the process and treated with the same fairness as those individuals in school.

The Head Teacher should provide a consultation document detailing:

- The reasons for the proposals

- The numbers and category of staff concerned (where changes are proposed to more than one category of staff, there may be a need for each category of staff to have their own consultation documentation and process)
- The selection criteria and how they will be applied
- Timescales in which reductions must be made

It is also strongly recommended that schools consult with Trade Unions in any potential redundancy situation (this is a legal requirement if 20 or more employees are proposed for dismissal within a 90 day period). It is advised that the meeting with Trade Unions is held on the same day as staff consultation, or as early as possible within the consultation period. Where possible, An advance copy of the consultation document/selection criteria should be provided to Unions several days in advance of the launch of consultation.

It is recommended that the minimum period for consultation is 14 days , however schools should attempt to extend this wherever possible up to a period of 30 days (not withstanding the above legal requirement). Should there be a need to proceed with redundancies following this, further time will be required for a full and fair process to be completed before the first redundancy takes effect.

Redundancy & Early Retirement

Redundancy is defined by law as arising where an employee is dismissed:

- a) Because the employer has ceased or intends to cease, to carry on the business
- OR
- b) Because the employer's requirements for employees to carry out work of a particular kind in the place where they are employed have ceased or diminished.

Redundancy is a dismissal **not** related to the individual concerned. It should be emphasised that it is the post that is redundant. Dismissing an employee so that the same post can be offered to another member of staff on a lower salary would not constitute a genuine redundancy and may result in Employment Tribunal claims.

At all stages of the staffing reduction process, voluntary solutions should be considered, where this meets the ongoing needs of the school. If an individual in scope of redundancy has submitted a request for voluntary redundancy, the school should consider this but are not obliged to accept if the individual possesses a strong skills set that the school wish to retain.

Any redundancy payments will be calculated in accordance with LCC's policy and will be based on actual weeks' pay.

Selection

The method of selection must use clearly identified objective criteria and be made clear in the consultation letter. Criteria will normally be curriculum based and designed to best meet the future operational needs of the school.

The application of the selection criteria is a task for the Head Teacher once the consultation period is complete. In order that the criteria may be fairly applied a skills audit of all staff is recommended.

This may be achieved by asking staff to provide a resume of their skills within a reasonable timeframe (e.g. the last 2 years). Alternatively, the Head Teacher may choose to use interviews as their selection method.

Where a timeframe is set in which staff should demonstrate they hold the skills required, it is important that any staff who have been absent from work due to sickness or maternity leave during that time are not treated less favourably.

If an individual has volunteered for redundancy they should only be considered in light of the future operational needs of the school and selection only confirmed on this basis.

Representation

Following a full consultation with individuals and Trade Unions, individual(s) should be notified in writing of their selection for redundancy.

Individual(s) should be notified of their right to make representations against their selection and given at least 5 days' notice of the meeting. Employee's have the right to be accompanied by a work colleague or a Trade Union representative. Relevant papers that will be relied on at the hearing should be circulated to all parties with the notice of the hearing.

The format for the meeting will be:

1. Head Teacher makes introductions and outlines the purpose of the meeting.
2. Head Teacher summarises the process to date i.e. panel approval, consultation, selection method and selection decision.
3. The employee and/or colleague/Trade Union make representations against the decision to dismiss on the grounds of redundancy. The employee can refer to documentation.
4. Head Teacher (and HR Advisor if present) may ask questions of the employee.
5. Adjournment for Head Teacher to consider employee's representations.
6. Employee and colleague/Trade Union return and the decision is announced.

Either:

- A) Head Teacher confirms proposal to dismiss and reason why.
 - Inform employee of their right to appeal against the dismissal decision to a panel of 3 Governors.

- Explain redeployment support will be available for the duration of the notice period.

OR

B) Head Teacher retracts selection decision

The Head Teacher should inform the employee in writing of the outcome of the representations meeting. The letter will inform the employee of their right to appeal against the decision to a committee of Governors. If the employee wishes to exercise this right, they should write to the Clerk to Governors setting out the full grounds for the appeal.

Notice of Termination of Contract

If following the representations meeting, the Head Teacher's decision to make an employee redundancy still stands, notice should be issued in accordance with the appropriate terms and conditions.

Community, Controlled, Community Special and Maintained Nursery Schools

The Head Teacher must notify Lincolnshire County Council of the decision to dismiss and the reason for this. Your HR provider will within 14 days issue notification of the termination of the contract to the employee.

If a subsequent appeal reverses the dismissal decision the termination notice will be rescinded.

Foundation, Aided and Foundation Special Schools

The notification of termination of contract should be issued by the school following the initial dismissal decision. If a subsequent appeal reverses the dismissal decision the termination notice will be rescinded

Appeals

The Appeal Committee must be a properly constituted committee of governors who are untainted and would not normally include staff governors. The committee will be made up of three governors, one of whom should be nominated as Chairman.

An HR Advisor on matters of procedure will advise the committee. The HR Advisor will also be able to participate in the meeting but the decision regarding the action to be taken will be taken by the committee members only; although the HR Advisor will be present throughout their deliberations.

The format for the Appeal Hearing will be:

1. Head Teacher, employee and colleague/representative enter together.
2. The Chairman of the Committee describes the procedure. Any procedural questions are resolved at this point.

3. The appellant and/or colleague/representative present case based on the grounds specified when submitting the appeal. The appellant can refer to documentation and call witnesses.
4. The Head Teacher may ask questions of the appellant and/or colleague/representative and any witnesses.
5. Members of the Committee and HR Advisor may ask questions of the appellant and/or colleague/representative and any witnesses.
6. The Head Teacher responds to appellant's presentation and may call any witnesses in connection with the grounds for appeal.
7. The appellant and/or colleague/representative may ask questions of the Head Teacher and any witnesses.
8. Members of the Committee and HR Advisor may ask questions of the Head Teacher and any witnesses.
9. The appellant and/or colleague/representative summarise and conclude.
10. The management representative summarises and concludes.
11. The management representative and appellant and colleague/representative withdraw whilst the Committee, advised by the HR Advisor, consider the appeal.
12. The management representative and appellant and colleague/representative return and the decision is announced.

The Clerk to the Governors should inform the employee in writing of the outcome of the appeal. There is no right of appeal beyond the Governing Body.

Redeployment

Throughout all stages of the process set out above, the priority of the school and LCC will be to seek to retain in employment those staff in a redundancy situation as a result of the selection process. All available steps will be taken to support employees and they will be asked to complete a redeployment form which acts as a skills audit to assist in the internal redeployment process. A copy of this form is available within the [Managing Change Toolkit](#). An employee who is declared redundant has a shared responsibility with their employer to seek alternative employment and employees are encouraged to adopt a flexible approach when considering alternative posts.

If internal redeployment is unsuccessful, the individual(s) may access the Redeployment Scheme for Schools Based Staff. The Education Reorganisation Officer who is responsible for the Scheme, will need to be informed and invited to meet with staff at the earliest opportunity. A referral form will need to be completed (available within the [Managing Change Toolkit.](#)) and a copy of the redeployment form attached.

Individual(s) applying for posts in other schools or Directorate should advise the Education Reorganisation Officer to ensure that their application can be logged and reviewed. Please ensure that 'REDEPLOYEE' is written at the top of the application form.

All non-teaching staff are engaged under the national Joint Council for Local Government Services and may claim 'At Risk' Status for posts within the County Council (although not within schools).

The following measures will be available to "at risk" employees. At all times employees are entitled to be represented by a recognised Trade Union representative. 'At Risk' employees have the right to prior consideration for appointment to any vacancy at the same level or a lower salary level to their existing post, where they meet the necessary minimum skills and experience requirements or would do, given suitable training. Prior consideration means that they will be entitled to an interview before any other candidate.

Where the "at risk" candidate satisfies the requirements, they should normally be appointed. If they are not appointed the interviewing officer must inform the employee in writing, giving reasons why they were not appointed, before another appointment is made.

Where an offer is made, the employee will be given reasonable time following the offer to reach a decision, and to discuss relevant issues or concerns. After agreement by all parties the proposals will be implemented. Governors within the school who have adopted this policy will need to actively engage in the redeployment process as this may financially benefit your school.

The employee who is under notice has a statutory right to a trial period of four weeks in the alternative job.

Schools that have 'at risk' members of staff who are redeployed into temporary roles of twelve months or less will still be liable for the redundancy payment (and other associated costs) payable to that employee if that temporary contract is not extended beyond twelve months or the employee is not further redeployed into a different role.

In order to comply with regulations in respect of Teachers, the Governing Body must provide LCC with a specification for any vacant post and they may consider a nomination by LCC prior to advertising the post.

Financial Contributions

It is essential that schools undertake regular budget monitoring to support its financial health, particularly due to the more challenging financial climate being faced. Budget management requires income and expenditure to be monitored and compared with the latest approved budget throughout the financial year to ensure that it is contained within the budget available, and any problems can be identified at an early stage, allowing sufficient time for any necessary corrective action to take effect.

Schools are required to attend the staffing reduction panel where redundancy proposals are planned. The panel through the attendance of key disciplines, supports schools achieve the right outcomes and solutions in being more financial efficient, and the setting of a sustainable budget.

All Schools are required to pay 100% of the redundancy and associated early release of pension costs (if applicable), unless the school (maintained primary school only) is in 'financial difficulty' – where if failure to implement the proposal would leave the school with a financial deficit within two years and thus in financial difficulty. In this situation the following charging policy will apply to the school:

Primary Schools

The first £5,000 of the total cost of any redundancy; or 50% of the total cost of any redundancy; whichever is the greater, subject to a maximum of 2.5% of the school's budget share for that financial year, with the maintained primary school de-delegation budget for schools in financial difficulties funding the balance.

NB: The total cost includes the lump sum redundancy payment and any associated pension costs.

NB: in exceptional circumstances, the Council may waive the right to approve a financial contribution from the primary maintained school's de-delegation budget for 'schools in financial difficulties'. In this instance, the school would be required to meet the costs in full. It is important the Council safeguard and govern the use of the de-delegation budget on behalf of maintained primary schools.

See the Charging Policy below for examples of how the charging policy might affect the school. Please note:

- The charge will apply in the year in which the redundancy takes place.
- The percentage will apply to the original budget share and will not include the previous year's carry forward.
- The Policy is intended to be as simple and transparent as possible so that schools can estimate the costs themselves.

Charging Policy – Examples

Redundancy Policy (April 2011)

Note: Costs include the lump sum redundancy payment and any associated pension costs.

For Primary Schools, the charging policy is:

The first £5,000 of the total cost of any redundancy; or 50% of the total cost of any redundancy; whichever is the greater, subject to a maximum of 2.50% of the school's budget share for that financial year, with the maintained primary school de-delegation budget funding balance.

Greater of:	£5,000.00	50%	Limited to:	2.50%
Actual Redundancy Cost	Budget Shares	The greater of the first £5,000 of costs or 50% of the total costs	School Payment (limited to 2.50% of budget share)	De-delegation Budget Contribution
£7,000	£810,000	£5,000	£5,000	£2,000
£21,000	£1,100,000	£10,500	£10,500	£10,500
£31,000	£360,000	£15,500	£9,000	£22,000
£3,000	£740,000	£3,000	£3,000	£0
60,000	£1,300,000	£30,000	£30,000	£30,000