



Tudhoe Learning Trust

Restructure and Redundancy

Policy and Procedure

Approved by: Trust Chief Executive Officer **Date:** September 2022

Last reviewed on: September 2022

Next review due September 2024
by:

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Introduction

Tudhoe Learning Trust as an educational organisation, needs to respond to both national/external initiatives and internal demands in order to deliver continuous improvement for the academies within the trust and its pupils.

The need for staffing restructure and reductions is likely to be required from time to time and may be driven either by finance and/or mismatch of skills and curriculum needs.

The trust will seek to minimise the impact on employees wherever possible and consult with employees and their Trade Union representatives at the earliest opportunity to enable them to help shape the organisation and/or avoid the need for compulsory redundancies. The Trust does not currently have a Trade Union Recognition Agreement in place but will endeavour to consult with all relevant Trade Unions. Consultation will be appropriate to the circumstances and compliant with employment legislation.

The aims of the policy and procedure is to establish a framework for the management of restructure and redundancy, ensure appropriate consultation takes place, ensure an equitable approach across the trust and ensure that employees are supported during such periods of change.

The responsibility for the management of restructure and staffing reductions rests with the Learning Trust's Chief Executive Officer.

The responsibility for identifying that there is a requirement to restructure and/or reduce the staffing establishment rests with the Academy Head Teacher/Director of Finance and Business Development, who should inform the Learning Trust's Chief Executive Officer.

It is the responsibility of Trust Directors to form an Appeals Panel that will be available to hear appeals that may be required as part of the restructure/redundancy procedure.

In applying this policy, the Trust will not unlawfully discriminate in respect of any of the protected characteristics as defined under the Equality Act and specified below:

- Age
- Disability
- Gender reassignment
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation
- Marriage and civil partnership

The operation of this Policy will be kept under review and changes will be made as deemed appropriate.

Staffing restructure/reduction process

Initial action

The Head Teacher/Director of Business Finance and Development will make the Chief Executive Officer aware of the situation e.g. financial deficit or curriculum mismatch, and gives the Chief Executive Officer the opportunity to:

- Acknowledge that there is a problem
- Alert Trust Directors and seek approval to deal with the problem

The Chief Executive Officer will be provided with sufficient information to establish the nature of the problem and will not simply rubber stamp the Head Teacher/Director of Business Finance and Development's assessment of the situation. The Chief Executive Officer will not get involved in attempting to resolve the problem at this time as this may prejudice their role as decision maker at the later stages of the procedure.

In this Trust, the Board of Directors have delegated authority to the Chief Executive Officer to deal with Restructures and Redundancies.

The Head Teacher will contact the Trust HR Manager to arrange a strategy meeting.

Strategy meeting

The strategy meeting gives an opportunity for the Head Teacher to discuss the situation facing the school, gain an understanding of the relevant process to be followed and consider ways in which the issue could be addressed. The meeting will usually involve the Head Teacher, Trust HR Manager and also a representative from Finance.

If it is determined that the formal restructure and/or redundancy process needs to be followed, the Head Teacher will send out an Early Warning letter to alert relevant trade unions to the issues facing the school and that a briefing meeting will take place with staff to advise them that the staffing structure may need to be reviewed.

The purpose of the briefing meeting is to alert staff to the situation and invite suggestions as to how the situation may be resolved which could resolve the situation and avoid the formal redundancy process.

A draft early warning letter will be provided by the Trust HR Manager.

The Head Teacher will arrange to meet with all staff to explain the situation and let them know that their trade unions have been informed. The Head Teacher will explain how the situation has come about and that any suggestions that staff have to help resolve the situation will be given consideration (e.g. job share, reduction in hours, natural wastage, early-retirement/voluntary redundancy). It is not appropriate to discuss any proposals at this stage.

It should be emphasised that employees can request an estimate of benefits without any obligation to accept it and without prejudice. It is recommended that staff obtain a firm estimate before making any definite decisions and may also find it useful to discuss the position with their Trade Union representative.

Preparation for Chief Executive Officer Meeting

The Head Teacher will present information to the Chief Executive Officer to clearly explain the rationale behind the proposal in the form of a Context Statement. This draft will form the basis of the information that will be distributed to staff and trade unions with the Consultation Letter or S188 notice (where 20 or more employees are to be made redundant at one establishment within 90 days).

The context statement will clearly explain the business needs of the school and the rationale for the proposals. It will include the following information:

- Clarity of the problem and how it has come about
- Details of the current staffing establishment (teaching and non-teaching)
- Current and projected class organisation
- Organisation of administrative tasks, PPA cover, support staff involvement
- Ofsted and Local Authority comments
- Relevant pupil, governor, health & safety, premises issues
- Proposed method of selection and implementation
- Proposed selection criteria where relevant
- Proposed timeline for project

The Trust HR Manager will support the Head Teacher with the preparation of Context Statements and planning an appropriate timeline for the process.

The timescale for carrying out this procedure will be considered carefully in terms of both what is required for the consultation to be seen as being meaningful and also for the Trust to be able to issue notice to any staff who are made redundant where appropriate.

In addition, the following information will be made available if requested by trade unions:

- Governing body minutes (previous 2 years)
- Budget statements and outturn figures (previous 2 years)
- Current financial years budget proposals
- School Development Plan, School Pay Policy (if relevant)

Chief Executive Officer Meeting

The Head Teacher will present the context statement and information to the Chief Executive Officer to explain the circumstances and the proposals to resolve the situation. The Trust HR Manager will also attend the meeting to provide advice and guidance to the Chief Executive Officer regarding the consultation, selection criteria and draft the S188 letter where appropriate.

The Chief Executive Officer will analyse the financial and curriculum information that has been provided and establish if there is a need to go ahead with formal redundancy consultations the Trust has a legal obligation to consult with employees and their representatives with a view to reaching agreement about the ways of avoiding or mitigating the consequences of redundancy.

The Chief Executive Officer will discuss and make decisions on the following information which must be provided to staff and their representatives in order to fulfil their legal obligations in a Consultation Letter or Section 188 letter where appropriate:

- The reason for the proposals
- The number and descriptions of employees proposed to be dismissed by redundancy
- The total number of employees of any such description employed at the establishment
- The way in which employees will be selected for redundancy
- How the dismissals are to be carried out, including the period over which the dismissals are to take effect
- Information on determining redundancy pay
- Job descriptions
- Dates of future consultation meetings

As soon as practicable after the meeting, the proposals (Consultation Letter/Section 188 letter as appropriate) will be drafted and a Consultation Meeting will be convened with Trade Union Representatives where the proposals to restructure and the method of selection will be presented and discussed. Employees that are likely to be affected by the proposals will also be invited to a meeting with the Head Teacher and HR. This may take place immediately after the Trade Union Meeting and Trade Union Representatives will be invited to stay to attend the staff meeting. The employees will be provided with the same information as has been provided to the Trade Unions. A minimum of 5 school working days' notice will be provided prior to the meetings taking place. Further consultation meetings and one to one meetings may be arranged as part of the consultation process as appropriate.

Method of selection

Objective criteria, precisely defined and capable of being measured in an independent way, will be used when determining which employees are to be selected for redundancy. The chosen criteria will be consistently applied by employers and particular care should be taken to ensure that selection criteria are not directly or indirectly discriminatory towards any protected characteristics.

In seeking to agree selection criteria, the most important considerations for the future viability of the school are to maintain a balanced workforce after redundancies have been carried out. Specific skills, flexibility and experience may be the most relevant consideration to the future success of the school. It

is generally agreed that the following criteria is applied in relation to the future requirements of the school:

Principal considerations:

1. Appropriateness of initial and subsequent training
2. Duties currently undertaken as part of the job role
3. Other duties and responsibilities

Subsidiary considerations:

4. Contribution to the corporate life of the school
5. Discipline

An appropriate timescale for relevance of skills and experience should be considered. Relevant time periods can be extended pro-rata for long term sickness or maternity related absence.

It is the responsibility of the Head Teacher to develop the criteria which should clearly be derived from school needs as demonstrated in the context statement. The criteria used will be specific to the needs of the individual school and agreed with the Trust HR Manager. Length of service may be used as criteria.

Employees are asked to provide information regarding how they meet the proposed criteria. This will be validated by the Head Teacher and are awarded points for each of the subheadings.

Points will be awarded for each criteria within a factor that an employee has clearly evidenced they fulfil. To allow for a balance of skills and experience points scored under each factor may be ranked to avoid a skew in one particular factor. Ranking/weighting of points will be avoided unless there is clear justification to do so. Points for Discipline 'Live Disciplinary Warnings' will be deducted from the totals.

Alternatively, where school support staff are affected, consideration may be given to undertaking an appointments process following consultation, particularly where new posts are ring-fenced to employees. However, it must be noted that staff may find this selection process difficult given the circumstances and it may not be appropriate to add further pressure to an already stressful situation.

Where this is the chosen method of selection, the Head Teacher must clearly explain to the Chief Executive Officer the future requirements of the school and provide draft job descriptions and person specifications to meet such needs where appropriate. The new job descriptions will need to be evaluated to confirm the grades of the posts.

4. Consultation Meetings

The purpose of these meetings is to consider representations from the Trade Unions and affected staff regarding the proposals made by the Chief Executive Officer. The Head Teacher of the relevant academy and Human Resources will be responsible for managing the consultation process, they will attend the meeting and provide advice and guidance regarding the consultation.

Any comments, suggestions or representations made during the consultation process will be collected and shared with the Chief Executive Officer for their consideration, prior to them making a determination regarding the proposals.

The Chief Executive Officer is advised to consider carefully any representations that are made to them and to be clear as to the nature of any counter proposals/suggestions.

When the Chief Executive Officer has considered any points made by staff or their representatives, the Chief Executive Officer needs to decide whether or not to go ahead with the proposals and prepare a response for the Head Teacher to send on their behalf. The response will relate to any queries raised and inform employees of the outcome and confirm the determination in writing and provide details of the selection process as appropriate. The Head Teacher will make the arrangements for the selection process.

SELECTION

The Chief Executive Officer must compare the information provided by staff against the agreed criteria and identify the employee(s) who they propose for redundancy. The HR Manager will attend the meeting to provide advice and guidance on the application of the criteria and the identification process.

Alternatively, affected employees may be interviewed for the new post(s) in the structure where appropriate, in line with usual school procedure.

The Chief Executive Officer must reach a decision regarding which employee(s) are to be appointed.

The Head Teacher will verbally inform the identified employee(s) before informing other staff and confirm the proposed determination in writing.

Representations Meeting

All staff selected for redundancy have the right to request a representations meeting with the Chief Executive Officer. The purpose of this meeting is to hear representations from the employee(s) identified to decide whether or not the process and selection have been fair and reasonable. Employees have the opportunity to attend the meeting with a trade union representative or colleague and may raise appropriate issues e.g. clarification of information submitted, relevant additional information or the grounds for the Chief Executive Officer's proposed determination.

The Trust HR Manager will attend the meeting to provide advice and guidance to the Chief Executive Officer and the Head Teacher.

The Chief Executive Officer will consider the representations and formulate a response advising the employee(s) of the outcome.

Notice

The Trust HR Manager will arrange for a letter of notice to be issued to the identified staff and notify the Trust Payroll Provider of the decision.

The Head Teacher will continue to liaise with the employee(s) to find alternatives to compulsory redundancy.

Appeal

The identified employee(s) have the right of appeal against the decision and if they wish to exercise this right, they must do so in writing to the Trust HR Manager within 10 school working days of receiving written confirmation of the decision. When an employee submits an appeal, the Head Teacher will be responsible for preparing and delivering a presentation of the case to the Appeals Panel on behalf of the Chief Executive Officer.

This should cover an explanation of the procedure to date, including:

- How the problem was identified
- What proposals were made and why
- How the Chief Executive Officer viewed any representations made
- How the Chief Executive Officer made their identification
- How the Chief Executive Officer dealt with any representations on identification

The Appeals Panel must be able to explain their decisions in light of the information heard at the appeal hearing. Members of the Appeals Panel, as far as is reasonably practicable, should have had no previous involvement in or knowledge of the process.

Although they are reviewing the decisions of the Chief Executive Officer, this must not affect their thinking with regards to their responsibility to overturn any decision that they do not feel to be fair and/or reasonable.

There are two broad areas for redundancy appeals panels to consider:

1. Does the Appeals Panel consider that there is a genuine need for redundancy? e.g. on curriculum/financial grounds
2. Has the process followed been applied fairly and reasonably? e.g. was the pool of selection fair, were the criteria applied in a fair manner?

Directors sitting on the Appeals Panel will consider the appeal submission, formulate a response and inform the employee(s) of their decision.

Further Information

If you would like any further information or advice in relation this Policy please contact the Trust HR Manager on 01388 811 765 or office@tudhoelearningtrust.co.uk.

Summary of procedure

Strategy Meeting

Meeting takes place between HR, Finance and Head Teacher before meeting CEO

CEO Meeting

Consider the problem and formulate proposals, selection criteria and Section 188 letter if appropriate. Set dates for meetings.

TU Consultation Meeting

Formal TU consultation meeting to discuss proposals and formulate responses

Staff Consultation Meeting

Formal staff consultation meeting to discuss proposals and formulate responses

Further consultation meeting/1-1 meetings during consultation period if requested

Selection process (if required)

Selection process to identify employee(s) for redundancy/new posts

Representations Meeting

Individual representations from employee (s) affected
CEO considers information presented and advises employee of outcome

Issue notice re termination of employment (if necessary)

Following proposals becoming a determination, notice issued to identified employee(s)

Appeals Panel (if appropriate)

Employee(s) identified for redundancy submits an appeal.
Head Teacher presents procedure and explains criteria on behalf of the CEO

Trade Unions

Support Trade Unions

Union	Name	Address	Phone/Email
GMB	Michael Hopper Regional Officer (TUPE only)	GMB Office 17 Manor Way Balasis Hall Technology Park Billingham TS23 4HN	Tel: 0191 2333930 michael.hopper@gmb.org.uk northern@gmb.org.uk
	Joy Thompson Branch Secretary	GMB Office 4 th Floor County Hall Durham DH1 5UL	Tel: 03000 268134 gmb@durham.gov.uk joy.thompson@durham.gov.uk
Unison	Conor McArdle Regional Officer	Regional Office Unison 140-150 Pilgrim Street Newcastle upon Tyne NE1 6TH	Tel: 0191 2450893 c.mcardle@unison.co.uk northern@unison.co.uk
	Neville Hancock Branch Secretary	Unison Office 2 nd Floor County Hall Durham DH1 5UL	Tel: 03000 261214 unison@durham.gov.uk n.hancock@durham.gov.uk
Unite	Ray Sanderson Regional Officer	Transport House Fry Street Middlesbrough TS1 1HA	Tel: 01642 242314 ray.sanderson@unitetheunion.org

Teaching Trade Unions

Union	Name	Address	Phone/Email
NASUWT	National (TUPE info only)	NASUWT Rose Hill Rednal Birmingham B45 8RS	Tel: 0121 4536150 nasuwt@mail.nasuwt.org.uk
	Regional Richard Matkin	NASUWT Office Witney Way Bolden Colliery	Tel: 0191 5195300 rc-northeast@mail.nasuwt.org.uk
	Durham District Dan Lister	Tyne & Wear NE35 9PE	dan.lister@gmail.com
NEU	National (TUPE info only)	ATL 7 Northumberland Street London WC2N 5RD	Tel: 0207 9306441 Fax: 02890782029 enquiries@neu.org.uk
	Regional Ken Smith	ATL Regional Office PO Box 288 Darlington DL1 9LX	Tel: 01325 281536 Mob: 07587 633234 ken.smith@neu.org.uk
	District Officers Joe Bann Emma Parker		joe.bann@neu.org.uk emma.parker@neu.org.uk
ASCL	National (S188 & TUPE info)	ASCL National Office 130 Regent Road Leicester LE1 7PG	Tel: 0116 2991122 info@ascl.org.uk
	Regional John Kesterton	ASCL Regional Officer North East 130 Regent Road Leicester LE1 8PG	john.kesterton@ascl.org.uk
VOICE	National (S188 & TUPE info)	VOICE 2 St James' Court Friar Gate Derby DE1 1BT	Tel: 01332 378012 contact@voicetheunion.org.uk
	Regional Anwar Ali		Tel: 01332 378032 chrisburns@voicetheunion.org.uk

NAHT	National (TUPE info only) Regional Dave Marshall District Officer	NAHT 1 Heath Square Boltro Road Haywards Heath West Sussex RH16 1BL	Tel: 0300 30 30 333 info@naht.org.uk dave.marshall@naht.org.uk TBC
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