



STEP Academy Trust

Restructuring, Reorganisation and Redundancy Policy

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1. SCOPE

This policy has been agreed by STEP Academy Trust Board of Trustees and applies to all employees of STEP Academy Trust (“the Trust”).

2. INTRODUCTION

- 2.1 Periodically, governing bodies may need to consider changes in their staffing complement. The need for change may arise as a result of, for example but not exhaustively, budgetary constraints, curriculum requirements, demographic changes, school re-organisations etc.
- 2.2 Given the wide and varying nature of organisational reviews, this policy is intended to provide a framework for good practice in restructuring and re-organisation. It is intended that these arrangements ensure that re-organisations are carried out as swiftly as possible so as to ensure the continuity and quality of service delivery.
- 2.3 The Trust is committed to the principle of avoiding or minimising compulsory redundancies wherever feasible and ensuring that alternative methods such as natural wastage and redeployment are used to manage reductions during the course of re-organisations. Re-skilling and re-training of staff will also be considered in appropriate circumstances.

2.4 This policy provides guidance on restructuring exercises which may cover a team or a department, involve more than one Academy or cover the whole Trust.

Options which Strategic Governing Bodies will need to consider include:-

- reductions in the total number of staff;
- adjustments to staffing levels in different management and/or curriculum areas;
- adjustments to working and/or contract hours of staff;
- a combination of these measures.

This Policy outlines the obligations of Strategic Governing Bodies in these situations and offers advice on possible ways of managing change fairly and co-operatively.

Strategic Governing Bodies are reminded that the obligations upon them, as set out in this Policy, apply both to permanent (including part-time staff) and the majority of fixed term staff.

In order to exercise its role effectively in consultations, the Strategic Governing Body will need to set up a committee (sometimes referred to as the first committee) to lead the process and an appeals committee (sometimes referred to as the second committee) to hear any appeals associated with the process. Strategic Governing Bodies may use existing committees to undertake these roles: it is essential that members of the appeals committee have not been part of the committee leading on the reorganisation.

3. CONSULTATION REQUIREMENTS

Consultation is a legal requirement. Any proposal to alter the terms and conditions of staff requires consultation with staff and their representatives and therefore the first thing that the Strategic Governing Body will do is to authorise the Head Teacher to begin consultations on their behalf. If the Head Teacher is affected by the potential re-organisation then the authority to consult will be delegated to a designated Governor.

The Strategic Governing Body will need to write a business case explaining the rationale for the change and the proposed changes.

3.1 STAGE 1 - Proposals and Consultation

3.1.1 Informal Consultation – Initial Proposals

Trade Unions/Professional Associations and employees must be informed as early as possible that a re-organisation is being considered and informal consultation initiated.

Before staff are informed of any proposals, the Academy will write to senior representatives of the recognised Trade Unions and Professional Associations, inviting them to attend a meeting to discuss the proposals. The invitation will include details of the proposals and a sample letter for situations involving potential staffing reductions can be found at Appendix 2 of this procedure.

Following the meeting with Trade Unions and Professional Associations there will be a meeting with staff and their representatives to explain the proposals (this can be immediately after the first meeting with Trade Unions and Professional Associations)

3.1.2 Formal Consultation - Initial Proposals

Following the initial meeting with the representatives of the Trade Unions and Professional Associations, formal proposals should be put to the employees and trade unions, by writing to every member of staff that is affected. This letter and the business case will provide details of the initial

proposals and invite them to attend a group consultation meeting to discuss them.

The consultation should involve all affected staff and therefore it is important to make arrangements for consulting staff who are away from the workplace e.g. on maternity/paternity leave, long term sickness or secondments.

The proposals should clarify:

- the reasons for the reorganisation;
- the broad principles upon which the new structure or new work processes will be based;
- the new functions and arrangements which will remain within the Academy/Trust;
- the new functions and processes which will be transferred to any partner organisations.

In the case of a whole Academy restructuring, if some parts of the structure remain unchanged this should be indicated at the earliest possible stage and this part of the structure excluded from the reorganisation.

Consideration will need to be given as to how the reorganisation will be phased, managed and implemented, whilst ensuring the appropriate input of all those concerned and a consistency of outcomes.

Important - If it is envisaged that there will be a reduction in the number of posts as a result of the re-organisation then this will constitute a potential redundancy situation and the Academy will follow the process described at Section 7 of this Policy.

3.2 STAGE 2 – Assimilation Process

The arrangements to deal with assimilation to each re-organisation will be tailored to meet the circumstances and will be proposed to and discussed with the Trade Unions/Professional Associations.

3.2.1 Where re-organisations are taking place jointly with partners, for example a Multi-Academy Trust, where posts in more than one organisation are affected and potentially displaced by the changes, the assimilation process will need to be negotiated with the partner Academies.

3.2.2 Where there is a need for a reduction in the number of staff, the Chair of the Strategic Governing Body should firstly consider whether the required reductions can be made without the need for compulsory redundancies i.e. through: voluntary redundancy, natural wastage, recruitment freezes, reductions in overtime, agreed changes to part-time working and cessation of temporary workers. In such circumstances, and before any agreements with individuals are reached, consideration must be given to all costs involved, including any on-going pension costs; and the skills base required for the Academy after the changes.

DEFINING THE RING FENCE & ACCESS TO NEW POSTS

4.1 As a first step it will be necessary to identify the relevant pool of staff who are affected by any reorganisation. Only staff within the ring-fenced group will be eligible to be assimilated to posts in the new structure, ie if the employee's substantive post is being deleted as part of the reorganisation.

4.2 In most instances the re-organisation will be team or department specific. However, in some instances, structures or functions may be reorganised Academy-wide and/or in conjunction with a partner organisation, eg catering etc and all the staff affected will need to be identified.

At the same time relevant Trade Union/Professional Association consultations will need to continue, which may be at a team or departmental level or may even need to be cross-departmental. Once staff have been identified, the trade unions will be consulted on the ring fence, the assimilation process and the selection criteria.

4.3 The staff concerned will also then need to be informed of the ring fencing, assimilation and selection process.

4.4 In determining the ring fence and for assimilation purposes, staff acting up or seconded will be treated on the basis of their substantive post. Temporary employees or permanent staff covering posts temporarily will normally be excluded from the ring fence.

JOB MATCHING

5.1 To decide which of the following processes apply, there will need to be a “matching” exercise between the role or functions of the current substantive post and those in the reorganised structure. A panel of Governors (or nominated senior officers) will be set up to undertake the matching process.

5.2 This match will be based on the contents of the most up to date job description, together with duties currently carried out by the post-holder. Matches to lower grades will be subject to the personal protection principles outlined in the STEP Redeployment Guidance.

5.2 For ‘direct assimilation’ (i.e. a match of at least 80%) subject to sufficient numbers of posts being available, appointments may normally be assumed. Where assimilation is assumed, a structural discussion may be undertaken with the individual to explore the areas of work and any new person specification requirements and how these may be addressed. In all other cases, appointments cannot necessarily be assumed since there will be a full assessment against the person specification criteria for the new roles.

5.3 An appeal panel will be set up, consisting of three Governors supported by the Head of HR, to consider any appeals and they will be the final arbitrator where there is a dispute as to the match. Where more than one Academy is involved, a joint panel will decide.

5.4 Except in cases of direct assimilation, all appointments to the new structure will be made in accordance with the principles of the Trust’s Recruitment and Selection Policy and Procedure.

5.5 Occupational tests, designed to take account of those skills or competencies identified in the new person specification, may in some cases be used to assess either current abilities or potential.

Detailed guidance on job-matching, including the appropriate documentation and how it should be used, should be obtained from the Head of HR before commencing any job-matching process.

LEVELS OF JOB-MATCHING

6.1 Match of 80% or more (“No fundamental change”).

6.1.1 Direct assimilation will be considered first and is applicable where there is “no fundamental change” in the job content or function from a post in the previous structure and where there are the same number or fewer employees for each post.

6.1.2 “No fundamental change” will be on the basis that there is a significant match i.e. ‘80% or

more' match. In cases of direct assimilation support staff may have access to jobs up to two grades higher.

6.1.3 Where direct assimilation is proposed to a role with changes to the person specification, there may be an interview and an assessment of the extent to which the employee matches the person specification with a view to identifying development needs. Nevertheless, the employee is assimilated into the post as explained above.

6.1.4 Where there are more "80% matched" current post-holders than there are posts within the new organisation, there may be competitive ring fenced interviews and/or other assessments, with staff applying for jobs, setting out how they meet the person specification.

6.1.5 Employees assimilated into a role on the basis of an 80% or higher match are not subject to the normal probation procedure in their new role.

6.2 Matches of 50% up to 80%.

6.2.1 Where direct assimilation is not possible because there is no match of 80% between existing and new roles, staff will be asked to submit an application, setting out how they meet the person specification criteria. Support staff may apply as part of a ring fence process for a job up to two grades higher than their existing job if there is a match of at least 50% between their current and new roles. They will then be interviewed as to their suitability, based on the person specification for the new posts. As employees will be required to meet the person specification criteria, appointment cannot be assumed.

6.2.2 Support staff successfully applying for positions following a 50-80% match are subject to the normal probation procedure in their new role.

6.2.3 Teachers, as part of a ring fence process, if there is a match of at least 50% between their current and new roles (provided there is no one with a 80%+ match), will be interviewed as to their suitability, based on the person specification for the new posts. As employees will be required to meet the person specification criteria, appointment cannot be assumed.

6.3 Matches of up to 50%

6.3.1 Where there is a match of less than 50% between current and new roles, employees affected by the proposed change may apply as part of a ring fence process for a job up to one grade higher than their existing grade.

Support staff successfully applying for positions after a match of less than 50% are subject to the normal probation procedure in their new role.

7. REDUNDANCY SITUATIONS

7.1 There may be situations where there is a need for a more straightforward reduction in employee numbers. For example:

- A decision to reduce a particular team, resulting in some of the jobs in that team ceasing to exist.
- Improvements in efficiency that result in a reduced need for jobs of a particular type.

Job descriptions and person specifications should be reviewed to determine if there are any changes.

7.2 Definition of Redundancy

The need to carry out some consultation procedures and eligibility for some payments depends on whether there is a case of redundancy as defined by the statutes. It is therefore helpful to know the statutory definition of redundancy when considering the possibility of staff reductions.

A person can be regarded as dismissed on grounds of redundancy if his or her dismissal is attributable wholly or mainly to:-

- the fact that his or her employer has ceased or intends ceasing to carry on the business for the purposes of which the employee was employed by him/her, or has ceased or intends to cease, to carry on that business in the place where the employee was so employed; or
- the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in a place where the employee was so employed, have ceased or diminished or are expected to cease or diminish.

In the case of an Academy, a redundancy may arise, for example, through Academy closure or amalgamation, changes in its organisation or through changes in its financial position for demographic or other reasons. There may also be a reduced demand for particular kinds of jobs so that although the total number of people employed at the Academy is the same there is a reduced demand for people to carry out work of that particular kind.

Strategic Governing Bodies are reminded that, if a deleted post remains in the Academy's structure, this does not constitute a redundancy situation.

7.3 Redundancy Consultation

Responsibility for consultation with the recognised professional associations and trade unions lies with the Strategic Governing Body (or Board of Trustees where multiple Academies are effected). Governors may delegate the responsibility for leading the consultation process to the Head Teacher. However, in all cases Academies are advised to consult the Head of HR to receive help in applying the consultation procedure.

Alternative suggestions made by the Trade Unions/Professional Associations will be given serious consideration. The objective should be to reach agreement wherever possible.

Strategic Governing Bodies should allow as long a period as possible for the consultation, planning and implementation processes. This applies particularly in the case of teachers in view of the complex requirements of the Education Act and the fixed teacher termination dates.

Strategic Governing Bodies should ensure that they have adequate arrangements for:

- (a) making and implementing detailed decisions, including the necessary consultations, identification and selection of individual members of staff to be declared surplus to the Academy's requirements.
- (b) hearing representations from individual members of staff who may be aggrieved by any decision reached in relation to their selection or non-selection or any other aspects relevant to the process.

Responsibility for the detailed consultation and implementation, including initial representations

from individual members of staff, should be delegated to a committee with responsibility for personnel. A separate appeals committee will need to be established for hearing appeals from individual members of staff.

Formal written notification must be sent to the senior representatives of the recognised Trade Unions and Professional Associations covering the topics referred to in Section 3, (see Appendix 2 – Section 188 notice). In addition to the formal written procedures, meetings should be arranged with the Trade Unions and Professional Associations to discuss the implications involved. Every effort should be made to arrange these meetings at times convenient for representatives of the Trade Unions and Professional Associations.

Following these meetings with the Trade Unions and Professional Associations, meetings with the staff directly affected should then be arranged at the earliest opportunity to inform them of the proposals, to discuss the options which will be pursued in order to seek to avoid the need to make staff compulsorily redundant and to outline the assistance which will be available to staff in finding alternative employment. The Trade Unions and Professional Associations should be invited to attend these meetings (Advice on assisting staff with redeployment is contained in STEP Academy Trust's Redeployment Guidance).

The Academy will make available individual consultation meetings for members of staff via one-to-ones with an appropriate member of staff.

7.3.1 There are legal requirements upon employers for consultation with staff and their representatives in a redundancy situation.

7.3.2 For the purposes of consultation, the current legislation states that the representatives may be of a recognised trade union(s) or elected staff representatives. The Trust has, however, well established arrangements for consultation with the representatives of the recognised professional associations and trade unions.

7.3.3 Strategic Governing Bodies are urged strongly to continue to consult with the representatives of the recognised professional associations and trade unions.

7.4 Timing of consultation

7.4.1 Consultation should commence as soon as it is known that reductions affecting staff may be required, whether or not it is possible they may be achieved by measures other than redundancy, with a view to reaching agreement with the recognised professional associations and trade unions on these matters.

7.4.2 It should include consultation on means of avoiding the dismissals, reducing the number of employees to be dismissed and mitigating the consequences of the dismissals. (See Appendix 3 for template timetable)

The minimum statutory periods for consultation before the first redundancy takes effect are:-

Numbers of staff likely to be made redundant	Minimum Consultation period
20 and under 100	30 days
100 or more	45 days

However, Strategic Governing Bodies are urged to begin consultation as soon as it is identified that there exists the possibility of a redundancy situation.

Although there is no statutory obligation to consult with employee representatives where there are fewer than 20 redundancies in an establishment, Strategic Governing Bodies are not absolved from the duty to consult individual employees, and to act fairly in all redundancy situations. The guidelines in this chapter should, therefore, be followed regardless of the numbers of employees who might be potentially redundant. It is recommended that a minimum of 30 days be allowed for consultation, where fewer than 20 employees are involved, before the first redundancy takes effect.

For the purposes of consultation the employer, ie the Strategic Governing Body for this purpose, must disclose, in writing:

- the reasons for the proposed redundancies;
- the numbers and descriptions of staff involved;
- the total number of staff of that description employed at the Academy;
- the proposed method of selecting staff to be dismissed;

- the proposed dismissal procedure including the period over which the redundancies will take effect;
- the proposed method of calculating redundancy payments if the statutory maximum is exceeded (this will include disclosure of any adopted policy to base the redundancy payment on less than the actual salary);
- consideration of ways of avoiding or reducing the number of dismissals;
- examination of ways of mitigating the consequences of the dismissals (see para 6).

The above notice must be issued to the following:

- the Academy representative of each recognised teacher association and support staff unions in the Academy;
- the appropriate local representative of each recognised Trade Union and Professional Associations in the Academy.

A sample letter for this purpose (known as a Section 188 letter) can be found as Appendix 2 of this procedure.

7.5 Consequences of failure to consult

7.5.1 The requirements of consultation will NOT be met if the Trade Unions and Professional Associations are merely presented with a complete package where the relevant decisions have already been taken.

7.5.2 Inadequate or insufficient consultation can lead to the Trade Unions and Professional Associations obtaining a protective award from an Employment Tribunal against the employer. This would require the employer (ie the Strategic Governing Body) to make a payment for a protected and specified period to staff who have been dismissed or are likely to be dismissed. This payment would be additional to any redundancy payment to which the staff would be entitled.

7.5.3 Employees who consider that they have been unfairly treated in the process may also pursue an unfair dismissal complaint through an Employment Tribunal. Such complaints can include questions relating to the statutory definition of redundancy, the criteria and/or methods for selection, inadequacy of consultation or attempts at redeployment.

Strategic Governing Bodies are therefore urged to continue to consult with the local representatives of the recognised professional associations and trade unions.

Strategic Governing Bodies are strongly recommended to seek advice and assistance from the Head of HR on any occasion that it appears that staffing reductions may have to be made.

7.6 Possible Courses of Action to Achieve Staffing Changes

Strategic Governing Bodies are reminded that it is the policy of the Trust that compulsory redundancies should be avoided wherever possible. Such action should be taken only after all other options have been considered fully.

Options which should be considered initially include:

- adjustments to staffing levels by natural wastage;
- termination or non – renewal of fixed-term contracts of less than 10 months continuous employment ;
- voluntary job sharing arrangements
- termination or non-renewal of agency, casual and supply workers contracts;
- redeployment and/or retraining to other suitable work within the Academy or to another Academy within the Trust;
- voluntary redundancy
- early retirement (subject to affordability);
- phased/flexible retirement;
- voluntary changes to the contract, such as reduction in hours;
- redeployment and/or retraining to other suitable work within the Trust;

NB: Where staff accept redeployment within the Trust, they will be given an appropriate trial period in the new post. If transfers are subsequently deemed to be unsuccessful, the acceptance of voluntary transfer will not be used as a factor in selecting staff for compulsory transfer, redeployment or redundancy.

The Academy should comply with any reasonable request for financial or budgetary information or information about the staffing structure where this will facilitate meaningful dialogue.

The Strategic Governing Body should co-operate, wherever possible, with the Trust's redeployment scheme or in any arrangements which might (eg through training) prepare staff for their new role.

Selection criteria

Where all alternatives to compulsory redundancy have been explored and exhausted but the reductions cannot be achieved fully without staff being displaced, the recognised Trade Unions and Professional Associations should be consulted on the detailed criteria to be used to select those posts/staff to be declared surplus to the Academy's requirements.

These detailed consultations may be conducted by a committee of the Strategic Governing Body or by the Head Teacher acting on its behalf. Decisions on the agreed selection criteria cannot be delegated to an individual and where the detailed consultations have been undertaken by the Head Teacher, the results must be referred to the relevant committee for approval.

In determining the selection criteria, Academies are reminded that the selection pool can shape the future composition of the workforce in terms of age, race, sex, disability, skills and working arrangements (eg full-time or part-time).

As the question of who to select for redundancy is a major item on which employers have to consult employee representatives, Academies should be clear as to the selection process they intend to use, well before consultation with staff begins. This will not only ease the consultation process but will also give the school time to consider fully the implications which selection can have on future performance.

Therefore the selection criteria must be:

- Established after consultation with the Trade Unions and Professional Associations;
- Explicit and published to the staff as a whole;
- Clear, reasonable, fair, objective and precisely defined;
- Non –discriminatory (whether directly or indirectly) on the grounds of gender, marital status, race, national or ethnic origins, religion, disability, age, part-time status, sexual orientation or trade union activity. This may occur when a provision, criterion or practice is applied with which a considerably smaller proportion of the group in question could comply and this cannot be justified;
- Designed to avoid prejudicing the employee's future employment prospects. Accordingly, the Governors will maintain a clear distinction between redundancy criteria and procedures covering discipline and capability.

The committee of the Strategic Governing Body should then:

- identify individual members of staff for redundancy in accordance with the agreed selection criteria;
- notify those staff in writing that their posts have been identified as potentially redundant;
- give those staff and their representatives the opportunity to make representations to the Strategic Governing Body about the identification of their posts;
- consider the representations made and notify the member(s) of staff of its final decision.

No public announcements shall be made until all individual employees have been informed.

Appeals

A member of staff may appeal subsequently to a separate appeals committee of the Strategic Governing Body where (s)he remains dissatisfied with the decision affecting his/her post. These provisions are without prejudice to the right of employees to present a case to an Employment Tribunal. For details of the procedure to be followed see the Protocol for Conducting Formal

Hearings.

8. RENEWAL AND RE-ENGAGEMENT

If any Academy is considering this action they should contact the Head of HR.

If the contract is renewed or the employee is re-engaged then the effect of continuity for statutory rights will be as follows:

- Any 'break' of up to 4 weeks between the ending of the original employment and the re-engagement by the Academy will count for redundancy purposes and may count for other statutory purposes depending on its length and whether it is covered by the provisions set out in s.212 Employment Rights Act 1996 (ERA), eg absence caused by a temporary cessation of work.
- Employees re-engaged within 4 weeks by another Academy covered by the Redundancy Modification Order 1999 will have continuity for redundancy but not for any other statutory rights and will not therefore be entitled to a redundancy payment.
- The 'trial period' will count towards continuity for all statutory employment rights.
- Under s.214 ERA 1996, receipt of a redundancy payment will break continuity for future redundancy payment purposes but not necessarily for other purposes.

Conditions of service benefits

The effect of any break in service will depend on the scheme of conditions in question, the reason for and the length of the break (see, for example, paragraph 14 of the National Joint Council for Local Government Services – National Agreement on Pay and Conditions of Service – the Green Book).

9. ISSUE OF NOTICES OF DISMISSAL OR CHANGE

The Strategic Governing Body, or its nominated representative, is responsible for issuing the notices of dismissal or change of contractual terms to staff employed in the Academy.

Immediately after a formal decision has been reached by the Strategic Governing Body to declare any staff surplus or to make any change affecting their terms and conditions, the Board of Trustees should be informed in writing of the reasons for the change, given full details of the staff affected, the date upon which the reductions are to take effect, and details of any severance terms which have been agreed. Where the detailed consultation arrangements are carried out by the Strategic Governing Body, confirmation should also be given to the Board of Trustees that the necessary consultation stages have been completed.

In normal cases, the Head of HR will take action to put the change into effect.

The formal notification is of course in addition to the consultations which will have been taking place throughout the whole procedure.

Strategic Governing Bodies are reminded that the timing of the reductions may be dependent upon the period of notice that staff are entitled to receive.

Following selection for redundancy, staff affected will be afforded reasonable paid time off to find

alternative work or to make arrangements for retraining. The Academy should support staff in finding alternative work (whether via the redeployment procedure or otherwise).

If, following the issuing of dismissal notices, the Academy is able to find appropriate ways of avoiding the redundancy the Strategic Governing Body should adopt such measures and withdraw the dismissal notice.

10. SURVIVING CHANGE

During the change process, the immediate priority for the Academy is to ensure the fair and sensitive handling of those staff who might lose their jobs or have their terms and conditions of employment changed. The future effectiveness of the Academy, however, will be influenced significantly by the morale of the remaining staff.

Staff who may be critical of the way change was handled and remain anxious about future job security are unlikely to display commitment, enthusiasm and initiative.

The primary objectives of Academies in these circumstances should be to:-

- establish honest, clear two-way communications and give the most encouraging messages possible;
- give all staff a full explanation of the situation and explain the policies and practices adopted with those made redundant or whose terms and conditions are changed;
- demonstrate the necessity for change;
- give an indication as to future employment prospects and possible changes in working arrangements;
- handle the changes in a responsible, fair and effective way;
- do everything possible to minimise redundancies and support those staff who lose their jobs;
- provide a forward-looking, positive attitude for the future and show the staff the value of their role in that future;
- where appropriate, arrange individual discussions with key staff to reassure them of their importance and employment prospects;
- ensure that senior staff have, or develop the necessary personal skills and attitude to operate effectively during periods of change.

11. PAYMENTS

Staff who are made redundant may be entitled to one of the following payments:-

- a redundancy payment; or
- a redundancy payment plus premature retirement compensation;

In all cases, reference to continuous service includes service with other education and local authorities and certain other areas of public service covered by the Redundancy Payments Modification Order, where individuals have not previously received a redundancy payment.

11.1 Redundancy Payments

Staff are entitled to a redundancy payment if they have two years' continuous service on or before their last day of service. The redundancy payment is calculated as follows:-

- One and a half weeks' pay for every year of employment in which the employee was 41 years of age and over.
- One week's pay for every year in which the employee was aged 22 years and under 41 years.
- Half week's pay for every other year of employment from age 18 but under 22 years.
- 20 years' employment is the maximum period in respect of which a redundancy payment is payable.

In calculating redundancy payments, STEP Academy Trust use the following when calculating redundancy payments for support staff:

- In cases of compulsory redundancy, by reducing by 50% the amount by which an employee's actual weekly pay exceeds the statutory cap - For example: if the statutory cap was £400 and an employee's actual weekly pay at £500, redundancy pay would be calculated on a revised weekly pay of £450.
- In cases of voluntary redundancy, by reducing by 25% the amount by which an employee's actual weekly pay exceeds the statutory cap – For example: if the statutory cap was £400 and an employee's actual weekly pay at £500, redundancy pay would be calculated on a revised weekly pay of £475.

Please note that for teachers the calculation of their weekly pay continues to be based on their actual earnings.

The matrix for calculating the number of weeks of pay in individual cases is shown in Appendix 1.

11.2 Premature Retirement Benefits

Support Staff

Support staff who are 55 years of age or over on the date that redundancy takes effect may also be eligible for lump sum and annual compensation in addition to the redundancy payment. Further details on this and other times when you can retire can be found on the Local Government Pension Scheme website.

Teachers

Teachers who are 55 years of age or over (see qualifying criteria below) on the date that redundancy takes effect may also be eligible for lump sum and annual compensation in addition to the redundancy payment.

The Normal Pension Age (NPA) for a teacher is dependant upon whether the member joined the scheme on or before 1 January 2007. Where a teacher was a member of the TPS before 1 January 2007 their NPA is 60. Where a teacher joined the scheme for the first time on or after 1 January 2007 their NPA is 65.

If a deferred member subsequently returned to service on or after 1 January 2007, they may come under transitional arrangements that preserve a NPA of 60. For guidance on this is available from the Teachers' Pensions website.

Before age retirement benefits can be paid the member must cease all teaching employment. If a member ceases teaching employment at any time after NPA they become entitled to the payment of their retirement benefits and should claim them at that time.

Qualifying criteria for Redundancy/Efficiency related Pension Benefits for Teachers

An employee will be eligible for a retirement lump sum and an annual pension if (s)he meet the following criteria:

- is aged 55 years or over on the date the redundancy takes effect; and
- has two years' pensionable employment at any time after 5 April 1988; or
- has two years' pensionable employment at any time, if the teacher was in pensionable employment on 6 April 1988; or
- has five years' pensionable employment at any time; and
- applies for premature retirement, and
- the Academy agrees to pay any mandatory compensation payments required by Teachers' Pensions.

Qualifying Criteria for Added Years enhancement for Teachers

An employee who meets the criteria for premature retirement must satisfy the following criteria in order for the Strategic Governing Body to consider awarding discretionary added years enhancement:

- (s)he must be aged 55 years or over on date retirement takes effect; and
- have at least ten years' eligible service; and
- apply for premature retirement.

In addition, the award of discretionary Added Years for efficiency cases should only apply in the following circumstances:

- To allow a replacement at the beginning of a school year of a teacher who reaches retirement age during the school year.
- Ill-health problems when an application for retirement on health grounds has been considered and refused, subject to the advice of the Council's Medical Adviser.
- Major changes to staffing structure leading to a reduction in the senior management structure or the replacement of a teacher at a substantially lower salary.
- Replacement of teacher on protected salary by a teacher receiving a significantly lower salary.

Calculation of discretionary Added Years enhancement

If the teacher satisfies the aforementioned criteria then, in cases of premature retirement on the grounds of Redundancy or Efficiency, an added years pension and lump sum may be granted by the Strategic Governing Body, based on a notional credited period of service which may not exceed the shortest of the following periods:

- a period equivalent in length to the aggregate of his/her service;
- a period which when added to his/her service does not exceed in aggregate 40 years. (This period may be restricted further in the case of staff who have been granted compensation for the loss of an earlier employment);
- a period up to the age of 65;

Please note – Added Years enhancement payments are met from the Academy' budget. The Academy should therefore fully consider the ongoing financial commitment resulting from the award

of any added years benefits before any offer is made to an individual.

12. RESPONSIBILITY FOR COSTS

Strategic Governing Bodies must consider the way in which they intend to fund any potential redundancies and ongoing pension costs before reaching a decision. They should liaise closely with their Academy's Business Manager throughout the process

In light of the current financial climate, the STEP Academy Trust can no longer fund these costs, other than in exceptional circumstances.

13. CHANGES TO EXISTING CONTRACTS OF EMPLOYMENT

The requirement for statutory consultation has been extended to cover proposals which would lead to a change in the terms and conditions of existing staff, such as a reduction in hours or changes to existing working arrangements. The requirements would be the same as in the case of redundancies but in such cases Strategic Governing Bodies must make it clear explicitly that:-

- a redundancy situation does not exist; and
- If any dismissals take place as a result of consultation, redundancy payments would not be payable.

Academies will also need to consult with individual members of staff and seek their agreement to the proposed change. Any member of staff to whom the change would be unacceptable would have the right to make representations and to appeal to the appropriate committees of the Strategic Governing Body.

Strategic Governing Bodies are reminded that staff are entitled to receive statutory notice of changes to their contracts of employment once they have been agreed. This requirement can be critical to the timing of the changes, particularly in the case of the fixed notice dates for teachers, and longer serving staff whose statutory notice period could be as much as 12 weeks.

Strategic Governing Bodies should seek advice, at an early stage, from the Head of HR on the processes for changing existing contracts of employment.

APPENDIX 1: REDUNDANCY PAYMENTS Number of Weeks Pay

Continuous Service (Years)																			
Age	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
18 ¹	1																		
19	1	1½																	
20	1	1½	2																
21	1	1½	2	2½															
22	1	1½	2	2½	3														
23	1½	2	2½	3	3½	4													
24	2	2½	3	3½	4	4½	5												
25	2	3	3½	4	4½	5	5½	6											
26	2	3	4	4½	5	5½	6	6½	7										
27	2	3	4	5	5½	6	6½	7	7½	8									
28	2	3	4	5	6	6½	7	7½	8	8½	9								
29	2	3	4	5	6	7	7½	8	8½	9	9½	10							
30	2	3	4	5	6	7	8	8½	9	9½	10	10½	11						
31	2	3	4	5	6	7	8	9	9½	10	10½	11	11½	12					
32	2	3	4	5	6	7	8	9	10	10½	11	11½	12	12½	13				
33	2	3	4	5	6	7	8	9	10	11	11½	12	12½	13	13½	14			
34	2	3	4	5	6	7	8	9	10	11	12	12½	13	13½	14	14½	15		
35	2	3	4	5	6	7	8	9	10	11	12	13	13½	14	14½	15	15½	16	
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14½	15	15½	16	16½	17
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15½	16	16½	17	17½
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16½	17	17½	18
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17½	18	18½
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18½	19
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19½
42	2½	3½	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½

¹ It is possible that an individual could start to build up continuous service before age 16, but this is likely to be rare, and therefore the table starts from age 18.

Continuous Service (Years)																			
Age	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
44	3	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½
45	3	4½	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
46	3	4½	6	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½
47	3	4½	6	7½	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
48	3	4½	6	7½	9	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½
49	3	4½	6	7½	9	10½	12	13	14	15	16	17	18	19	20	21	22	23	24
50	3	4½	6	7½	9	10½	12	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½
51	3	4½	6	7½	9	10½	12	13½	15	16	17	18	19	20	21	22	23	24	25
52	3	4½	6	7½	9	10½	12	13½	15	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½
53	3	4½	6	7½	9	10½	12	13½	15	16½	18	19	20	21	22	23	24	25	26
54	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	20½	21½	22½	23½	24½	25½	26½
55	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22	23	24	25	26	27
56	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	23½	24½	25½	26½	27½
57	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25	26	27	28
58	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	26½	27½	28½
59	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28	29
60	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	29½
61 ²	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	30

² The same figures should be used when calculating the redundancy payment for a person aged 61 and above.

APPENDIX 2: TEMPLATE LETTER TO ALL UNIONS [188 letter]

Dear xxx

I am writing to inform you that the Strategic Governing Body has identified the need to consider a reduction in staff and have asked me to begin consultations with yourself and representatives of the other professional associations and/or trade unions.

I set out below details relating to the proposal:-

1. Reasons for the proposed reductions

The reason for this proposal is XXXX.

Background XXX.

2. Number and descriptions of staff affected

It is envisaged that we need to lose XXX

3. Total number of staff of that description employed at the school

The total number of teachers working at the school is XXX.

The total number of teaching assistants is XXX.

etc

The total number of staff in all categories is XXX.

4. Proposed method of selecting any staff to cease to work at the school

The Strategic Governing Body had adopted the STEP Restructuring, Reorganisation and Redundancy Policy, a copy of which is attached for your information.

The Strategic Governing Body will use the following method:

- Consider the possibility of achieving some reductions by natural wastage and/or reductions in contractual hours.
- Invite volunteers for redeployment or redundancy.

You are invited to a meeting on xxx (date) to discuss the selection criteria.

5. Proposed implementation procedure

A meeting for all staff and the respective union representatives will be convened at the earliest opportunity.

In line with the Education Reform Act - 1988, the following procedure will be adopted:

(a) The relevant committee of the Strategic Governing Body will meet during the XXX term 200X to identify the posts and staff affected. Timelines for when decisions will be made and the date when representations can be made to it by the staff affected will be notified as soon as they are agreed.

(b) Arrangements and timescale for hearing appeals from the staff which have been selected will take place during XXX.

(c) Final decisions will be made and conveyed to the Board of Trustees by XXX.

(d) It is anticipated redundancy notices will have to be issued by the Board of Trustees and the effective date for dismissals is XXX 200X.

6. Proposed method of calculating redundancy payments

The following should be included:-

It is proposed, in accordance with the policy of the School/Academy/LA, to:-

Base redundancy payments for support staff on:

50% of the difference between the statutory maximum and the actual salaries, where actual earnings exceed the statutory maximum for compulsory redundancies or:

75% of the difference between the statutory maximum and the actual salaries, where actual earnings exceed the statutory maximum for voluntary redundancies.

Base redundancy payments for teachers on the actual salaries and not limit them to the statutory maximum.

Optional

Grant staff who are eligible when the redundancy takes effect, immediate pension benefits (subject to affordability).

It is the intention of the Strategic Governing Body to seek to reach agreement with you on the measures to achieve the reduction and that there should be full and meaningful consultation. If there are any observations you would wish to make at this stage, in writing, I would be glad to receive them as soon as possible.

Yours sincerely

On behalf of Chair of first Committee

APPENDIX 3: SAMPLE TIMETABLE FOR GUIDANCE ONLY

Timetable for Effecting Redundancies from 1 September at DATE.....

ACTION	TIMING	COMMENT
Strategic Governing Body discusses staffing situation and realises that staff reductions may, at some stage, become necessary	As soon as possible	Although there is no statutory duty to consult at this stage, schools are urged to make contact with the Borough-wide representatives of the recognised trade unions at the very earliest stage.
STRATEGIC GOVERNING BODY determine:- (i) staff changes necessary (ii) First Committee plus Appeals Committee set up. (iii) if possible staff reduction contact Academy Business Managers and may be necessary to contact TU and Head of HR (iv) write business case (v) conduct an Equalities Impact Assessment		
FORMAL CONSULTATION with Staff and Unions begins Raise possibilities of : Natural wastage Part-time work volunteers	January/February	At earliest opportunity Section 188 letter Meetings with unions and staff; one to one meetings with staff made available
Draw up proposed SELECTION CRITERIA consult with unions and staff re selection criteria	February	
APPLY AGREED CRITERIA	February/March	Decide who involved in application e.g. HT/DHT
INFORM AFFECTED STAFF PUBLICISE DATES	March	Allow time for staff to contact Union reps and consider representations.
FIRST COMMITTEE OF STRATEGIC GOVERNING BODY	End March/Beginning April	Allow time for staff to contact Union reps and consider representations.

APPENDIX 4: Frequently Asked Questions

Q I know there are discussions taking place about the need to reduce staff. Will anyone ask me for my point of view?

A Yes, both you and your representative will be consulted; these consultations should be genuine and meaningful. Consultation involves proper consideration of the responses of the group being consulted. Your Head Teacher will formulate proposals to present to the Strategic Governing Body and these will be discussed with you before being implemented.

Q What is a 188 notice?

A This is a consultation notice the Strategic Governing Body must send to trade unions when it is proposed to dismiss staff at the school for a reason not attributable to the employee (most commonly, redundancy). This is a legal requirement under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and the notice must include certain information. You should be informed by your Headteacher that this notice has been sent and should be given details of the proposals contained in it.

Q Will I be able to do anything about the proposals in the 188 notice?

A Yes. You will have the opportunity to make representations individually or through your trade union representative to the First Committee of the Strategic Governing Body.

Q What is the First Committee?

A Once proposals have been agreed by the Strategic Governing Body which may lead to the dismissal of staff for a reason not attributable to the employee (usually due to redundancy), the Strategic Governing Body must set up a First Committee of at least 3 governors to deal with the statutory procedures, except appeals, dealt with by another committee.

Q Do I have to put my views in writing?

A Not necessarily. You can talk to your trade union representative who will put your views forward for you. You can also write to your trade union or the Chair of the First Committee at your school.

Q When will I know if I am to be made redundant?

A Once the First Committee have considered all the different points of view that have been put to them, they will make a final decision on the proposals and identify those members of staff to be dismissed as redundant. The First Committee will then write to you if you are one of those identified, to inform you of their decision.

Q Is there anything I can do about the decision to make me redundant?

A Yes there is. You can make representations against the decision to the First Committee. This can be done in writing or in person or through your trade union representative.

Q What is the point of asking the First Committee to change the decision about making me redundant?

A It is your legal entitlement to be able to do this. You are also able to make a further appeal against the decision to the Appeal Panel of the Strategic Governing Body. The Appeal Committee is made up of at least 3 governors who have not been involved in any of the decisions made by the First Committee and will, therefore, not be biased in any way when considering any points of view you put forward to them.

Q How do I put my case to the Appeal Committee?

A You can do this personally by writing to the Chair or by appearing before the Committee when it meets to hear your appeal. You can also ask your trade union or a colleague to help you with your appeal or to make the appeal on your behalf.

Q So, I have made my appeal to the Appeal Committee - what happens next?

A The Appeal Committee will let you know their decision. If your appeal is turned down, the Chair of Governors must tell you and who will then send you notice of your dismissal.

Q What if another member of staff resigns from my school during the period I am under notice of redundancy. Does this give me a reprieve?

A It depends on who that person is and what role they have in the running of the Academy. If you are a teaching assistant and a teacher resigns then that would make little difference to your future as it is likely the teacher would have to be replaced. If you were a classroom teacher and another teacher resigned, it might help your situation. The final decision would rest with the Head Teacher based on the needs of the Academy and the degree of staffing flexibility.

Q What about redeployment?

A There are obligations upon an employer to seek alternative posts for staff who otherwise would have to be made redundant.

Q Am I entitled to a redundancy payment?

A You are, if you have 2 years' continuous service in local government or with an associated employer.

Q How do I find out how much redundancy pay I am entitled to?

A The Head of HR will ask the Trust's payroll provider to calculate the estimate of your redundancy payment. This will be sent to you shortly after you are issued with your notice of redundancy (if it has not been sent to you earlier).

Q When will I receive my redundancy pay?

A Your redundancy payment will be made as soon as possible after your last day of service and usually within one month of leaving. A redundancy payment under £30,000 is non taxable.

Q If I find another job can I keep my redundancy pay?

A If you are offered and accept a job with the Trust or another local authority or associated employer listed under the Redundancy Payments Modification Order within 4 weeks of being made redundant you will not be entitled to a redundancy payment but will retain your continuous service.