

## REDUNDANCY PROCEDURE

Where a reduction in the number of employees is being considered:

1. The Principal will circulate relevant information to employees directly affected by the changes and to relevant recognised trade unions proposing a meeting for further discussions to take place. The Principal may wish to reassure staff that the college will endeavour to achieve any necessary reductions by voluntary rather than compulsory redundancy, wherever it is consistent with the needs of the college, and express a willingness to discuss informally, on a totally without commitment basis, an individual employee's position with respect to voluntary redundancy arrangements.
2. At the meeting the information should be presented again and comments/questions invited. If, as a result of the meeting and individual discussions with employees who have expressed an interest in voluntary redundancy, the Corporation's target staffing level cannot be achieved then it may be necessary to consider introducing compulsory redundancy arrangements. The Corporation will need then to agree its criteria for selecting employees for redundancy (as referred to at paragraph 14 in the notes for guidance).
3. Employers have a statutory duty to consult relevant recognised trade unions in good time once redundancies are proposed. In addition, they should also consult individual employees who may be concerned. This duty applies even when only one employee is to be made redundant and even when the employees to be made redundant are volunteers, or would not be entitled to redundancy payments, irrespective of whether or not they are members of one of the recognised trade unions. Consultation should take place in good time. Current legislation requires that consultation must in any event begin at least 30 days before the first dismissal takes effect if between 20 and 99 employees are to be made redundant at one establishment over a period of 90 days or less. Where less than 20 employees are to be made redundant it is recommended that the consultation period should be of at least 28 days. Individual periods of notice due to employees to be made redundant may run concurrently with their statutory minimum consultation periods, although it is good practice, in terms of allowing for meaningful consultation, to undertake consultations before redundancy notices are issued.
4. Under the Trade Union and Labour Relations (Consolidation) Act 1992, such consultation should include consultation about ways of:
  - (a) avoiding dismissals;
  - (b) reducing the number of employees to be dismissed; and
  - (c) mitigating the consequences of the dismissals.

and should be undertaken with a view to reaching agreement with the trade unions.

5. As part of that consultation, under section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 employers have a statutory duty to disclose in writing the following information:
  - (i) the reasons for the proposals;
  - (ii) the numbers and descriptions of employees it is proposed to dismiss as redundant;
  - (iii) the total number of employees of any such description employed at the college;
  - (iv) the proposed method of selecting the employees who may be dismissed;
  - (v) the proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect;
  - (vi) the proposed method of calculating the amount of any redundancy payments to be made (where such payments are in excess of the statutory minimum) to employees who may be dismissed.
6. All points made by the union representatives and employees concerned must be considered and reasons given in writing if any point is rejected. At this stage suitable alternative employment for any employees concerned must also be considered. (The Corporation will need to determine whether this formal consultation stage should be carried out by the Principal or by an appropriate Committee of the Corporation).
7. Employees under notice of redundancy will be given reasonable time off to seek alternative employment.
8. The Principal should ensure that employees selected for redundancy are notified in writing and advised of the estimated level of settlement and notice period they will receive. Employees will also be informed of their right to appeal against the decision to an appropriate Committee of the Corporation. Appeals should be lodged in writing to the Corporation within 10 working days of the receipt of the letter informing the employee of the decision. The decision at appeal is final. (Where a Committee of the Corporation has been involved in some of the earlier stages of the redundancy procedure, then a totally different Committee should be involved at the appeal stage).

### **Fixed-Term Contracts**

9. Where a fixed-term contract is due to come to an end for reason of redundancy, the same redundancy procedures will apply.

## REDUNDANCY PROCEDURES: NOTES FOR GUIDANCE

1. These notes are intended to set out some general considerations in any redundancy situation.
2. Throughout these notes for guidance the term 'Corporation' is used to mean the Employer in general without identifying specific roles for the full Corporation, Committees of the Corporation and the Principal.

In relation to the model procedures, important decisions need to be taken about the responsibilities of the Principal and the Corporation. The most appropriate arrangement is probably for the Principal or delegated alternate to undertake most of the early stages of the procedure. The decisions on dismissal on the grounds of redundancy should then be taken by the Principal and a Committee of the Corporation could then hear appeals against such notices of dismissal.

3. Redundancy is defined by s.139 of the Employment Rights Act 1996 broadly as:
  - (a) resulting from the ceasing of an activity altogether at a particular location or
  - (b) the requirement for employees to carry out work of a particular kind ceasing or diminishing or being expected to cease or diminish.

It is important therefore in considering any case for redundancy to demonstrate either: -

- (a) an actual or intended cessation of activity, either completely or at a particular workplace or
  - (b) that there has been, or is likely to be, a reduction in the requirement for employees to undertake the kind of work for which they were previously employed.
4. It is important to bear in mind when approaching questions of redundancy (which can include a reduction in hours) that:
    - (a) it is posts that are being considered for redundancy initially;
    - (b) there is a requirement to consult with relevant recognised unions and individual employees in good time;
    - (c) it may be necessary to determine general criteria for selection for redundancy;
    - (d) before a final decision is taken to declare an employee redundant, possible alternatives such as redeployment to other work must be explored.

Identification of the number and type of posts

5. In order to identify the number of posts and type of posts required in a college, the Corporation will need first to take account of a range of factors including:
  - (i) the priorities of the college which will be identified in the strategic plan;
  - (ii) the action plans which flow from the strategic plan; and
  - (iii) the resources available, both in general and for particular courses.
6. When the Corporation has, by this process, identified particular areas where a reduction in the number of posts may be necessary, the rationale for the reductions may be sufficient to identify one or more specific posts as redundant. However in some cases there will be a need to apply further criteria to identify redundant posts.
7. Before looking at other selection criteria, the Corporation must be able to show that it has acted reasonably by considering, in consultation with representatives of all relevant, recognised trade unions whether it is possible to avoid redundancies by means such as:
  - (i) restriction on recruitment;
  - (ii) retirement of employees who are beyond normal retiring age;
  - (iii) reduction of staff levels by natural wastage;
  - (iv) agreed reductions in hours;
  - (v) for support staff, reduction in any overtime;
  - (vi) re-training or transfer to other work in the college.
8. There are often a number of staff employed at a college whose appointments are on a temporary basis because the future staffing requirements of the college are uncertain. The Corporation may wish to review the appropriate levels of such temporary staff before seeking to reduce staffing levels amongst the permanent staff. Such staff will be entitled, however, if they have two years' continuous service to redundancy payments and if they have one year's continuous service to pursue a claim of unfair dismissal in the same way as a permanent member of staff. It is important to note that consultation with recognised trade unions and individual employees is still required when the non-renewal of a fixed-term contract is because of redundancy.
9. If, having fully considered the above options, it appears that redundancies cannot be avoided, then formal detailed consultations with the relevant, recognised trade unions and the individuals likely to be concerned will be necessary, as referred to in the procedure.

10. Where the Corporation has identified a group of employees from which to select one or more for redundancy the possibility of individuals volunteering for redundancy must be explored.
11. Employees aged 50 years or over may be eligible for early retirement with added benefits when dismissed by reason of redundancy.
12. Volunteers for redundancy may be considered but such applications will only be accepted where there is no conflict with the needs of the college. Where there are more volunteers than needed, then the selection criteria referred to in Paragraph 14 below will need to be used to determine the applications to be accepted.
13. Consultation is required even when the redundancies can be achieved by individuals volunteering, or where the staff to be made redundant do not have sufficient service to be eligible for redundancy payments.
14. Some possible criteria for selection for redundancy include:
  - (i) skills or qualifications - the Corporation will want to bear in mind the retention of those skills and qualifications most valuable to them and to retain the balance within the college that is most useful in relation to future staffing requirements.
  - (ii) standard of work performance/aptitude for flexible working - the Corporation would need to handle this very carefully and show the use of objective evidence to support selection on this basis.
  - (iii) attendance or disciplinary records - again this would need to be handled carefully to ensure eg that records of attendance were accurate and the reasons for and extent of any absences were known.
  - (iv) if these criteria do not resolve the selection situation then 'last in, first out' might be considered - this is easy to apply but is not recommended as the sole or first criterion as this could mean that the college lost skills it would rather retain.
15. Selection for redundancy should be in accordance with the agreed procedure unless there are special reasons to justify departure from it. The criteria to be applied must be used fairly in considering the position for all employees in a potential redundancy situation. Each individual must be treated in the same way. The redundancy dismissal will be judged unfair if the reason for selecting an employee for redundancy is trade union or pregnancy related or discriminates on the grounds of race, sex, disability, sexual orientation or religion or belief.
16. Under the Articles an employee has the right to make representations to the Principal ("or to any person appointed to investigate the matter") before any decision to dismiss is taken. It is the intention under the procedures that employees should be afforded this opportunity (see paragraph 6 of the model procedure).