

## **Wellspring Academy Trust**

### **Managing Change Policy**

---

Date Approved by Board:	July 2019
Date of Review:	July 2022
Responsible Department:	Human Resources
Policy Applies to:	Wellspring Trust and all Academies within the Trust

---

*The Equality Act 2010 requires public bodies, in carrying out their functions, to have due regard to the need to:*

- *eliminate discrimination and other conduct that is prohibited by the Act*
- *advance equality of opportunity between people who share a protected characteristic and people who do not share it*
- *foster good relations across all characteristics - between people who share a protected characteristic and people who do not share it.*

*In the development of this policy due regard has been given to achieving these objectives.*

## Contents Page

1.0	Scope	Page 3
2.0	Principles	Page 3
3.0	Definition	Page 3
4.0	Identifying the need for change	Page 4
5.0	Fixed Term Employees	Page 4
6.0	Consultation	Page 4
7.0	Absent Employees	Page 6
8.0	Implementation of new structure	Page 6
9.0	Selection for Redundancy	Page 7
10.0	Notice	Page 8
11.0	Appeals	Page 8
12.0	Statutory entitlement to redundancy payment	Page 10
13.0	Local Government Pension Scheme	Page 10
14.0	Monitoring and Review	Page 10

**Appendix 1**    **Process and Protocol at a Managing Change Appeal Hearing**

**Appendix 2**    **Template Managing Change Letters**

**Appendix 3**    **Statutory Redundancy Calculation Table**

**Appendix 4**    **Preference Form**

**Appendix 5**    **Appeal Form**

## **1.0 Scope**

- 1.1 This policy applies to all employees of Wellspring Academy Trust (the Trust) including those employed by academies within the Trust.
- 1.2 This policy outlines the principles and procedures to be followed whenever there is a need to make organisational changes, ensuring any selection process is fair, consistent, objective and non-discriminatory.
- 1.3 This policy is not contractual and does not form part of an employee's terms and conditions of employment. Any contractual conditions e.g. notice periods will be adhered to.

## **2.0 Principles**

- 2.1 Forecasting and managing change is integral to successful medium and long-term planning. Changes can occur for a variety of reasons including new curriculum requirements, falling pupil numbers, reduced budgets, cessation of funding streams, changes to legislation.
- 2.2 As such, changes may be necessary in a variety of different ways including restructuring or remodelling the way education/services are delivered. The responsibility for this is with the Trust/Academies within the Trust and where reference is made to the CEO/Executive Principal in this policy, this definition can extend (where appropriate) to the Trust's Executive and Senior Management Team or the Trusts Board (e.g where it effects the Senior Management team / CEO).
- 2.3 The Trust/Academy will optimise opportunities for skills retention and development and will take all reasonably practicable steps to obtain continuation of employment or redeployment and to minimise compulsory job losses. However, it is recognised that in order to meet business and educational needs, compulsory redundancy may regrettably be the outcome.

## **3.0 Definition**

- 3.1 The Employment Rights Act 1996, states that a redundancy occurs where a dismissal is wholly or mainly due to:
  - The employer has ceased, or intends to cease, to carry out their business for the purposes of which the employee is employed;
  - The employer has ceased, or intends to cease, to carry on that business in the place where the employee was so employed;
  - The requirements of that business for employees to carry out work of a particular kind have ceased or diminished or are expected to do so;

- The requirements of the business for employees to carry out work of a particular kind in the place where they were so employed have ceased or diminished or are expected to do so.

#### **4.0 Identifying the need for change**

4.1 The CEO/(Executive) Principal will identify the specific need and business reason for change within the Trust/Academy and will notify the board/governing body of the intention to commence the managing change process.

4.2 Prior to the commencement of any formal processes, the following measures will be considered in an attempt to avoid the need to reduce staffing:

- Restrictions on recruitment.
- Restrictions on overtime.
- Voluntary reductions in hours/job share.
- Reduced working time.
- Voluntary severance.
- Re-training of employees.
- Voluntary redeployment.
- The termination of agency/casual and fixed term contracts where appropriate.

4.3 If the requirement for change is still identified, the CEO/(Executive) Principal will draw up initial proposals affecting staffing structures and initiate the consultation process.

#### **5.0 Fixed Term Employees**

5.1 At the start of the restructuring/managing change process, those employees on fixed term contracts should be identified to determine the nature and business reason for their contract and whether an objective justification applies to treat those employees differently and exclude them in the restructuring process.

5.2 Where a fixed term contract was to cover for staff absence and that employee is due to return, differential treatment will be justified and the fixed term contracts will end in line with the contract. The substantive post holder will be informed of the requirement to commence a restructure / managing change process.

#### **6.0 Consultation**

6.1 The Trust/Academy has a duty under the **Trade Union and Labour Relations (Consolidation) Act 1992 (Amendment) Order 2013 – Section 188 Notices** to meaningfully consult and issue formal notice to

the recognised trade unions about any potential redundancy situation as well as informing employees where posts are identified as being at risk.

6.2 The purpose of formal consultation is to share with employees and recognised trade unions proposals for change and associated procedures to allow either party the opportunity to give feedback and offer alternative solutions. Such proposals should be submitted to the CEO/(Executive) Principal for consideration.

6.3 In accordance with the above act, the following timescales should be followed:

- If there are **20-99** employees to be dismissed by reason of redundancy the statutory consultation period is **30** days.
- If there are **100+** employees to be dismissed by reason of redundancy the statutory consultation period is **45** days.

If there are **less than 20** employees to be dismissed by reason of redundancy, there is no statutory period of consultation. In these circumstances, and by mutual agreement with the trade unions/employees, the minimum consultation period will be **10** working days.

6.4 When the potential of redundancies is **20 or more**, a **Section 188** notice letter will be issued to the relevant trade unions notifying them of the following (**Appendix 2 – letter 1**):

- The reasons for the proposals to reduce staffing levels.
- The total number of employees within the Trust/Academy where the redundancies are proposed to occur.
- The total number, designations and locations of employees proposed to be dismissed by reason of redundancy.
- The proposed method of selection for redundancy.
- The proposed method of effecting redundancies, including the period over which dismissals will take effect i.e. the first date and last proposed redundancies.
- The method of calculation of any redundancy payments.
- The date of the first consultation meeting.

6.5 A [HR1 Form](#) should be submitted to The Redundancy Payments Service (acting on behalf of Secretary of State for Business, Innovation and Skills) at the same time as the Section 188 notice letter. Each Academy is considered to be a separate establishment and will need to consider numbers affected per Academy at the outset of the process.

6.6 Where the potential of redundancies is **less than 20**, a notification letter (**Appendix 2 – letter 2**) will be issued to the trade unions advising of the proposal to review staffing needs.

- 6.7 All affected employees will be notified that a period of consultation has/will commence regardless of the potential numbers (**Appendix 2 – letter 3**).
- 6.8 The CEO/ (Executive) Principal will respond to alternate propositions throughout the consultation period and hold meetings/ briefings, including one to one meetings with affected employees and their representatives.
- 6.9 The method to which the new structure will be populated will be raised during the consultation process (e.g. slotting process/ring fence/preference recruitment exercise/selection matrix).
- 6.10 Any proposals suggested will be considered and responded to in writing. At the end of the consultation period the final structure and number of employees to be affected will be confirmed.

## **7.0 Absent Employees**

- 7.1 Employees may be absent from work for a number of reasons such as maternity leave/ sickness absence/ or as part of a work break or secondment. All absent employees must be consulted and informed of the proposed changes on the same basis and to the same degree as all other employees. Alternative arrangements for communication may be put in place accordingly and implemented in line with the relevant legislation.
- 7.2 Employees who are on Maternity leave and identified as at risk of redundancy will be offered suitable alternative employment where applicable, in line with Regulation 10 (Maternity and Parental Leave Act 1999).
- 7.3 Any employee who is dismissed by reason of redundancy who is on maternity leave will not have to repay any occupational maternity pay up to the date that the dismissal takes effect.

## **8.0 Implementation of the new structure**

- 8.1 In exceptional circumstances, the consultation process can be completed sooner than the specified period, if all parties are in agreement. However, statutory notice must be adhered to.
- 8.2 Populating the new structure may commence during the consultation period where prior agreement has been reached.
- 8.3 In some circumstances, it may be appropriate to allow individuals the opportunity to apply for any post in the structure as long as the essential criteria is met. However, the selection process will be agreed as part of consultation with assimilation (slotting) and ring-fencing being options that are included.
- 8.4 Slotting process:
  - Where it's identified that the role and responsibilities of an existing post and a post in the new structure remain substantially unchanged, the grade is the same and there are no more people than posts available the employees will be slotted into the new structure.

- Where it's identified that the role and responsibilities of an existing post and a post in the new structure remain substantially unchanged, there are no more people than posts available, however the grade is lower than the substantive the employees will slot in if this has been agreed as part of the consultation process as a reasonable redeployment opportunity (see paragraph 12 on pay protection).
- Where it is identified that the role and responsibilities of the existing post are comparable to those on the new structure and the employee can demonstrate they meet the essential criteria of the new person specification, and there are no more people than posts, the employees will be slotted into the new structure (even if the grade is higher than the substantive post).

#### 8.5 Ring fence recruitment process:

- Where it is identified that the role and responsibilities of an existing post and a post in the new structure are the same, the grade is the same but there are more people than posts available; or
- Where it is identified that the role and responsibilities of the existing post are comparable to those on the new structure and the employee can demonstrate they meet the essential criteria of the new person specification, but there are more people than posts.
- A ring fence process will be followed whereby employees will apply for the post that is the nearest match to their current substantive post and a selection process will take place (e.g. interview/ selection matrix as agreed during the consultation process).

8.6 Any issues or concerns in relation to the proposed slotting process / ring fence preference process should be raised during the consultation period.

## 9.0 Selection for redundancy

9.1 If at the end of the process there are any unplaced employees (not able to slot in or unsuccessful as part of the ring fence recruitment process) the employee will be notified that they have been provisionally selected for redundancy.

9.2 A meeting will take place and the employee will have the opportunity to make representation against their selection for management to consider. The outcome will be confirmed in writing (**Appendix 2 – letter 4**).

9.3 If the employee is selected for redundancy, they will be given the right of appeal against their selection in accordance with the Trust's Hearings and Appeal - Terms of Reference (section 11.0).

Opportunities will be sought across the Trust wherever possible to redeploy affected employees, where a suitable vacancy can be identified.

- 9.4 Employees who are in the redundancy notice period have a right to reasonable time off to look for work or make arrangements for training. Such paid time equates to two fifths of one week's pay during the whole notice period.
- 9.5 Within the notice period, employees have a statutory right of a 4-week trial period, which could be extended by mutual agreement, to establish suitability for the post. Where exceptional performance is made, the trial period could be ended early and the employee confirmed in post.
- 9.6 During the notice period, consideration will be given to whether any vacant posts are suitable alternative employment opportunities for those employees.

## **10.0 Notice**

- 10.1 Where selection for redundancy is confirmed, employees will be served notice in line with their terms and conditions of employment. Statutory notice periods will supersede where this is longer (1 weeks' notice for every year of service up to a maximum of 12 weeks) (**Appendix 2 - letter 4**).

## **11.0 Appeals**

- 11.1 Employees have the right of appeal against the selection for redundancy within 10 working days from the date of the redundancy notice letter. The Appeal Form in Appendix 5 should be used for this purpose but a letter outlining the grounds for appeal is also acceptable.
- 11.2 Employees have the right to be accompanied at the appeal hearing by their trade union representative or a work colleague. It is the employees' responsibility to make the necessary arrangements for representation. This right does not extend to family/friends or professionals such as solicitors and barristers.
- 11.3 Membership of all appeals panels will consist of between one and three members, depending on the specific circumstances.
- 11.4 The Panel will be drawn from the Trust's Executive and Senior Management Team who have had no previous involvement in the matter and who are not conflicted (i.e. the CEO, Executive Principals, Executive Vice Principals, Heads of School or Members of the Support Centre's Leadership Team) and/or a member of the LGB with agreement of the LGB Chair.
- 11.5 In instances where an appeal hearing relates to an Executive Principal, Principal, Executive Vice Principal, or Head of School, the Panel will comprise of the relevant LGB Chair or Vice Chair (or another LGB member appointed by the LGB Chair), along with the CEO (or a person appointed to deputise for the CEO) and up to one member of the Trusts' Executive Management Team (i.e. the CEO, Executive Principals, or members of the Support Centre's Leadership Team). The composition of the Panel will be agreed jointly between the LGB Chair and the CEO.
- 11.6 The employee will be given 10 working days' notice of the Appeal Hearing and be informed of: -



- The name(s) of the person(s) who will hear the case.
  - The date, time and location of the hearing.
  - The right to representation
  - A copy of the Managing Change Policy.
- 11.7 The appeal will be conducted having regard to the matters set out on the Appeal Form and/or letter from the employee, and the outcome letter of the restructure. Both parties may address the person(s) hearing the appeal summarising the key aspects of their case.
- 11.8 The person(s) hearing the appeal will receive the Appeal Form and/or letter, relevant documents referred to in the restructure process, and a copy of the letter confirming the outcome of the restructure.
- 11.9 At the appeal stage, either party may decide that it is relevant for witnesses to attend the meeting. In circumstances whereby it is impracticable or unacceptable for witnesses to attend, the person hearing the appeal will determine the weight placed on the evidence provided.
- 11.10 Every reasonable effort should be made by the employee and representative to be available for the appeal hearing. If the employees' representative is unable to attend on the specified date, the employee may request that the hearing be postponed. Provided that the new date is within 5 working days of the original date, this will be accommodated.
- 11.11 If following reasonable attempts to arrange a suitable date for all to attend and the employee/their representative is still unavailable, the person hearing the appeal may determine that the appeal is withdrawn.
- 11.12 The appeal should normally be conducted in one day except in exceptional circumstances.
- 11.13 If an employee attends with a TU representative or work colleague, the chosen representative does not have the right to answer questions on the employees' behalf or address any meeting without the employees' consent however they do have the right address the appeal panel and present the employees' case.
- 11.14 The process for the Appeal Hearing will be as outlined in the Process at a Formal Appeal Hearing (see Appendix 1).
- 11.15 The person(s) hearing the appeal has authority to confirm or revoke the original outcome. The decision of the person(s) hearing the appeal is final.
- 11.16 Where possible the decision will be given to the employee at the conclusion of the appeal hearing and confirmed in writing no more than 5 working days after the hearing.
- 11.17 The written record of the appeal hearing should be completed as quickly as possible after the date of the hearing.
- 11.18 All documents pertaining to this procedure should be retained on the employee's personal file.

## **12.0 Entitlement to Redundancy Payment and Pay Protection.**

12.1 An employee who is dismissed by reason of redundancy will be entitled to a redundancy payment, providing they have at least 2 years continuous service with the Academy/Trust or related employer and are not in receipt of an offer of employment from any other employer before their termination date with a start date within 4 weeks of their termination date. Where the offer is made after the termination date or is to start more than 4 weeks after the termination date, then the employee will still be entitled to redundancy payment. (Redundancy Payment Modification Order).

12.2 To calculate the number of weeks due, the following will be used to calculate the redundancy payment:

- 0.5 weeks' pay for each full year of service where age is 18-21
- 1.0 weeks' pay for each full year of service where age is 22-40
- 1.5 weeks' pay for each full year of service where age is 41 or greater

(See Appendix 3 for full calculation table).

12.3 Academy based employees who have joined or further to TUPE have joined the Trust from a local authority, will receive a redundancy payment calculated in accordance with the local arrangements at the point of TUPE transfer.

12.4 Those employees who are centrally employed, will receive a redundancy payment based on contractual earnings.

12.5 Academy based employees will receive pay protection calculated in accordance with local arrangements at the point of transfer. Employees who are centrally employed do not receive pay protection.

12.6 The Trust/Academy reserves the right to withhold a redundancy payment in circumstances whereby an employee unreasonably refuses a trial or rejects a suitable alternate offer of employment. In addition, if an employee takes up employment within 28 days in an organisation specified in the modification order they are not entitled to a redundancy payment. **Appendix 3** will be included with the notice letter.

## **13.0 Local Government Pension Scheme**

13.1 Advice should be sought from the Trust's central HR team in respect of early access to LG pension schemes and this will be arranged without prejudice.

## **14.0 Monitoring and Review**

14.1. The policy will be reviewed to ensure consistency of application and adherence to Equalities legislation.

14.2. The policy will be reviewed every three years.

This policy has been consulted and agreed with the following Trade Unions: NEU, ASCL, Unison, GMB, Unite, NASUWT and NAHT.