

DERBYSHIRE LA

REDUNDANCY PROCEDURE

Flagg Nursery School

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1. Introduction

The Trade Union and Employment Rights Act 1993 defines redundancy as dismissal for a reason not related to the individual concerned.

Redundancies may be necessary because of direct financial or curriculum grounds. Redundancy procedures need to be considered where reductions are required in the number and/or nature of posts or in the hours worked by various postholders under the control of the Governing Body.

This document provides background information about redundancy and includes a Model Policy, Procedure, and Selection Criteria for adoption by Governing Bodies in exercising their powers of Local Management, and forms the basis upon which the Authority can best offer advice and support.

It is important to stress that the issues which arise in redundancy situations can be a source of potential industrial relations difficulties within any establishment and need handling with great sensitivity whilst ensuring compliance with relevant legislation.

It is vital both to the legal process, and for any employees involved, that redundancy procedures are followed independently of day to day absence or disciplinary issues.

The importance of adopting and complying with a proper procedure cannot be over-emphasised, particularly if the consequence of decisions made by a Governing Body results in cases brought before Employment Tribunals. Governing Bodies should therefore adopt Redundancy Procedures at the earliest opportunity. This will usually be well in advance of any need to use the procedures.

2. Relevant Legislation

Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, the Trade Union Reforms and Employment Rights Act 1993 and the School Staffing Regulations 2003 set out the employment rights to which employees are entitled, once they have accrued one year or more continuous service, within the maintained sector, in any capacity, in any or several establishments.

The major elements are:

- i. A requirement for the employer or relevant body to undertake full and meaningful consultation.
- ii. A right to dismissal on fair and reasonable grounds by a defined procedure and minimum timescale.
- iii. A First Committee meeting where posts, and therefore postholders, are identified for redundancy.

- iv. The right of representation to the First Committee.
- v. The right of an appeal hearing to an Appeal Committee, which excludes members of the First Committee.
- vi. The right to a redundancy notice, the period for which is one week for each year of continuous service, up to a maximum of twelve weeks, or the minimum laid down in the employee's conditions of service.
- vii. A requirement for the employer to consider all possible alternatives to redundancy and opportunities for suitable alternative employment, which may include retraining.
- viii. The right to a redundancy payment after two or more years continuous service.

Equality Act 2010

When conducting a consultation with a view to implementing a redundancy procedure, the process and provisions for enacting the staffing reduction must take account of the legislation that prohibits discrimination on the grounds of race, religion or belief, sexual orientation, age, disability, gender reassignment and sex. Discrimination by an association, against someone because they are associated with another person who possesses a protected characteristic is also covered by the Act.

Indirect discrimination applies to age, race, religion or belief, sex, sexual orientation, marriage/civil partnership, disability and gender reassignment. Indirect discrimination can occur when an organisation has a rule, policy, condition or practice that applies to everyone but particularly disadvantages people who share a protected characteristic. It can be possible to justify indirect discrimination if it can be shown to be 'a proportionate means of achieving a legitimate aim'.

3. Redundancy Procedures

The timing of the steps in any redundancy procedure is crucial. If a Governing Body notified the Authority of a decision that an individual should be removed from the school the Authority would have to dismiss the employee. The Authority would, however, have to consider whether to pass on to the school budget the full costs of such a decision if any of the following had not been met:

- Sufficient time for full and meaningful consultation.
- A proper procedure has been followed.
- Attempts have been made to reallocate the specific employee.
- All alternatives to compulsory redundancy have been fully explored.

In any of these circumstances the dismissal might be deemed unfair by an Employment Tribunal.

3.1 Consultation – Duty of Governing Body

It is the duty of a Governing Body which is contemplating redundancy of one or more employees of any description in respect of whom an independent Trade Union or Professional Association is recognised by the employer to consult at the earliest opportunity with Trade Union and Professional Association representatives (County Secretaries and organisers authorised to carry on collective bargaining on their behalf).

Under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRA), there is no statutory timescale for consultation laid down where up to 19 employees are to be dismissed due to redundancy in an establishment. Where 20 - 99 employees are to be dismissed for redundancy at an establishment a consultation period of 30 working days is required. Section 193 of TULRA states that where 20-99 employees are to be dismissed for redundancy 30 days notice of this must be sent to the Secretary of State.

When providing advice and guidance the Strategic Director, Children and Younger Adults' representative will want to ensure that the Governing Body fulfils the legal requirements for redundancy consultation procedures.

3.2 Duty to Consult with Trade Unions

Failure to inform the Trade Unions and Professional Associations or consult with them could result in an Employment Tribunal granting a Protective Award, which would be a specified number of weeks salary for each employee affected.

3.3 Other Potential Dismissals and Variations

The requirement to consult with Trade Unions and Professional Associations extends to other “potential dismissal” situations, for example, when varying terms of employment or termination of a temporary contract. Unless there is a specific term stated in the contract of employment which allows the variation, consultation is required with Trade Unions and Professional Associations.

3.4 Notice to Trade Unions and Professional Associations (Section 188 Notice)

In order to comply with the duty for the Employer to consult with Trade Union and Professional Association Representatives a Governing Body must provide in writing to the County Secretaries of the relevant Trade Unions and Professional Associations for the following information:

- the reasons for the proposals;
- current and projected budget information;
- the numbers and descriptions of employees it is proposed to dismiss as redundant;
- the total number of employees of any such description employed at the school;
- 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;
- the formula for determining severance pay.

This information must be delivered to them or sent by recorded delivery. A copy of this Section 188 Notice must be sent to the Strategic Director, Children and Younger Adults.

3.5 Measures to avoid redundancy

To ensure any dismissal is fair a Governing Body will need to consider in some detail the extent to which the measures listed below can be used to avoid redundancy:

- natural wastage;
- transfer of employees to other suitable work within the school (which may include training where applicable and reasonable);
- termination of temporary and/or casual teaching appointments (which may themselves involve dismissal);
- voluntary job sharing arrangements;
- voluntary transfer to part-time employment within the school;
- voluntary Early Retirement, Voluntary Redundancy or Severance, Premature Retirement;

3.6 Legislative Procedures

The specific legislative actions and timescale, which a Governing Body or delegated committee must carry out include:

<u>Action</u>	<u>Timescale – Working Days</u>
Budget and Curriculum Planning	As early as practicable/on-going.
Discussions with Governing Body	
Informal discussions and consultation with staff, Trade Unions and Professional Associations and Personnel Officers, Children & Younger Adults Department.	As early as practicable/on-going.
Staff meeting regarding alternatives to redundancy.	As early as practicable/on-going.
Governing Body confirms budget and curriculum plan, redundancy procedure and selection criteria, delegation of functions to a First Committee and Appeal Panel Committee. Issue formal Consultation (Section 188) Notice.	7 days
Governors formal consultation meeting. More than one consultation meeting in	30 days (If 20 -99 redundancies at

the period may be necessary if there are a range of categories of employee or larger numbers at risk. The governing body need to allow for the possibility of changing some of the processes or criteria as a result of consultation. If the change was not one universally sought by consultees, other staff may now wish to respond to the changed proposals.

an establishment)

Confirmation of procedure and criteria and any amendments following consultation.

First Committee meeting, identification of potentially redundant posts and employees.

Notification to potentially redundant posts to employees including their right of representation.

1 day

First Committee meeting to hear and consider representations of potentially redundant employees

5 days

Notification to employees of decision following their representations including, where appropriate, their right of appeal.

1 day

Receipt of any appeals.

10 days

Appeal Committee meeting to hear and consider appeals.

5 days

Notification to employees of decision following their appeals.

Notification to LA of employees identified for redundancy.

1 day

Redundancy notices issued by LA

10 days

Notice period.

60 days

(subject to length, and conditions, of service)

Discussions with Redundant Employees regarding alternative employment.

Throughout notice period

If necessary, the employee may be given notice following a decision to confirm identification for potential redundancy after the Representation Meeting. It is lawful for any appeal to take place in the notice period. This adaptation of the timetable may be necessary where schools have provided

more opportunity for consultation, in response to staff/union representations.

- 3.7 A model Redundancy Procedure is included as **Appendix 1** to this document. The Legislative timetable for Redundancy is included as **Appendix 4** to this document.

4. Selection Criteria

4.1 Criteria

Governing Bodies will need to agree and implement their selection criteria to identify essential posts, and in consequence posts which can be considered non-essential in order to meet the curriculum, pastoral and management needs of the school as defined in the School Improvement Plan. The Schools' Post Ofsted or School Improvement Plan should clearly identify any essential posts and the staffing structure agreed and published by the Governing Body may need to be reviewed if a reduction in posts is contemplated.

The criteria for determining whether a post is essential or not, might be that the post, and therefore the postholder, provides a key leadership and management role in the school at a senior level (usually Headteacher or Deputy Headteacher) or provides a lead role in a curriculum or pastoral area which is required in order to meet any statutory requirements or those of the Schools Post Ofsted or School Improvement Plan.

There are many potential selection criteria which a Governing Body might adopt, but they should be objective, fair, reasonable, measurable, and non-discriminatory.

The Governing Body should consider fully the implications of any selection criteria and ensure they do not discriminate against staff on the grounds of age, race, disability, religion or belief, gender reassignment, sexual orientation, sex or part-time status. In addition selection may be unlawful, under one or more of the discrimination statutes, where the criteria are indirectly discriminatory. This could occur when a provision of the process or selection criterion is applied, which puts a protected group at a particular disadvantage, and which cannot be justified.

It is common for selection criteria to detail skills, training/qualifications and experience. Governing Bodies will need to think about the fairness of each criterion that is proposed, when the staff member's access to the training, experience, skill development may have been determined by the school leadership. To minimise this, it is good practice for schools to inform staff of the areas that would be likely to form selection criteria, in any future redundancy, and to open as many opportunities to staff as possible.

For instance when schools create/identify opportunities for staff to lead SIP initiatives, projects or change year groups, ensure reasonable consideration is given to the allocation of the opportunity amongst those who express an interest.

However, the Governing Body is responsible for the appropriate educational experience being delivered to pupils and the retention of staff, that will enable this to be sustained, should be a key consideration in formulating selection criteria. These need to be as fair as possible but inevitably choices made earlier in a staff member's career or by the leadership, in the school's interest, will sometimes have an eventual effect on an individual's score, on the selection criteria.

What is important is that the leadership do not knowingly award opportunities to individuals in order to protect staff from a future staffing reduction process.

FLAGG NURSERY SCHOOL REDUNDANCY POLICY AND PROCEDURE

Scope

This policy applies to all employees of the School. It does not apply to other staff working at the school who are employed directly by Derbyshire County Council or other partner organisations.

1. STATEMENT OF INTENT

- 1.1 It is the policy of this School through careful planning to ensure as far as possible security of employment for its employees. There may, however, be changes in local circumstances, organisational requirements and technological developments which may affect staffing needs. Governors will examine all budget headings and identify a clear rationale for deciding on specific categories of employees. It is one aim of the school in consultation with Trade Unions and Professional Associations to maintain and enhance the efficiency of the school in order to safeguard the current and future employment of the school's employees.
- 1.2 The School in consultation with the Trade Unions and Professional Associations will seek to find ways of avoiding, reducing the numbers and mitigating the consequences of redundancies. This will include provision of sufficient time and effort in finding alternative employment for any employees and through co-operation with the Authority in its attempts to redeploy staff. Where compulsory redundancy is inevitable the school will handle the redundancy in the most fair, reasonable, consistent and sympathetic manner possible.
- 1.3 The Governing Body will direct the Headteacher to inform all employees about potential redundancies at the earliest opportunity and also to explain strategies available to effect any staffing reductions. The Headteacher will also keep staff informed as circumstances change and develop.

2. CONSULTATION

- 2.1 The Governing Body is committed to consulting with relevant Trade Unions' and Professional Associations' as soon as practicable and keeping representatives fully informed about staffing requirements and any possible need for redundancies. The aim is to safeguard the interest of employees while meeting the prime objective of maintaining effective delivery of education to pupils. Consultation will include consideration of ways of awarding redundancies reducing them to a minimum and/or mitigating the consequences of dismissals.
- 2.2 The Governing Body will, at the outset, advise the LA of the staffing requirements of the school and will continue to inform and consult the LA throughout the procedure.
- 2.3 The consultation with relevant Trade Unions and Professional Associations will begin as soon as possible and in any case will not be less than the period

required by legislation, that is at least 30 days where 20 or more redundancies are being considered at the school. Where less than 20 or more redundancies are being considered the Governing Body will endeavour to adopt this timescale as good practice where practicable.

3. MEASURES TO AVOID OR TO MINIMISE REDUNDANCY

3.1 The Governing Body will consider ways in which it is able to avoid, or reduce the number of redundancies within the constraints of its budget and within the requirements of the curriculum and its obligations to pupils.

3.2 Such approaches would include:

- workforce planning
- natural wastage/planning
- balancing the budget over more than one year
- restricting the recruitment of permanent employees
- reducing the use of temporary contracts
- reduction of overtime
- filling vacancies from among existing employees where practicable
- co-operate as far as practicable in the training, retraining or redeployment of employees for different work
- reducing hours where contracts allow and following appropriate consultation
- consideration of early retirements with actuarially reduced benefits or efficient exercise
- seeking volunteers for voluntary redundancy

3.3 The Governing Body is aware of its responsibilities to offer suitable alternative employment, if available, to employees whose employment is potentially at risk and this procedure will form an important part in exercising this obligation.

3.4 The Governing Body will seek to work with the Authority to assist in redeploying employees identified as surplus for whatever reason and will reciprocate by giving fair consideration to employees offered or nominated to them for redeployment by the Authority or by other schools.

4. SELECTION PROCESS

4.1 The Governing Body is committed to the use of a fair consistent and non-discriminatory selection procedure.

4.2 The Governing Body will consider the possibilities of virement, voluntary early retirement with actuarially reduced benefits, voluntary redundancy, job-share, non-renewal of temporary contracts where appropriate and voluntary reduction in hours before the question of redundancy is explored and will continue to do so throughout the process.

4.3 At any stage throughout the process an employee is entitled to consult and be represented by a Trade Union, or Professional Association, colleague or friend.

- 4.4 The Governing Body will seek the advice of the Strategic Director, Children and Younger Adults' representative throughout the process.
- 4.5 The Governing Body will consult with relevant Trade Unions and Professional Associations on all potential options, procedure, and selection criteria, recognising that different or changing circumstances may result in the adoption of different strategies.

The Governing Body will identify strategies within its allocated budget to ensure that it is able to meet the National, and the School's, curriculum requirements and the agreed Post Ofsted or School Improvement Plan.

- 4.6 Subject to the constraints of the requirements of the Post Ofsted or School Improvement Plan and the school's curriculum statement all other things being equal the criteria set out in this policy will be applied.

5. PROCEDURE

5.1 Consultation

- 5.1.1 The Governing Body recognises its duty to consult both informally and formally at the earliest opportunity with the County Representatives of the recognised Trade Unions and Professional Associations.
- 5.1.2 The Headteacher will inform the LA at the earliest opportunity of the need for staffing reduction, including redeployment, and will keep the LA fully informed throughout in order that the Strategic Director, Children and Younger Adults or representative may exercise the right to be represented at any meeting when dismissal is considered.
- 5.1.3 The Strategic Director, Children and Younger Adults or representative will be asked to advise the Governing Body to ensure that it adheres to the legal requirements for redundancy consultation.
- 5.1.4 Formal consultation does not start until the Governing Body provide a Section 188 Notice (and NR1, if applicable) in writing to County representatives of **all** the recognised Trade Unions and Professional Associations which will include:
- the reasons for the proposals;
 - current and projected budget information;
 - the number and descriptions of employees it is proposing to dismiss as redundant;
 - the rationale for choosing the categories of employees;
 - the total number of employees of any such description employed at the school;
 - the way in which employees will be selected for redundancy;
 - how the dismissals are to be carried out, including procedure, selection criteria and a timetable for the procedure over which the dismissals are to take effect; and
 - the formula for determining redundancy payments;

- arrangements for reasonable time off with pay to seek alternative work or to make arrangements for training;
- current and proposed structure charts;
- Equality Impact Assessment to examine the implications of the proposals.

Consultation will cover the above issues and also ways of

- Awarding dismissals
- Reducing the number of employees to be dismissed
- Mitigating the effects of dismissals.

5.1.5 The Headteacher will alert employees to the situation at the earliest opportunity and explain the available strategies to effect the necessary reductions including providing them with access to a copy of the Section 188 Notice. This will normally be done through a staff meeting.

5.1.6 The Governing Body will:-

- i) consider any representations made by the Trade Unions and Professional Associations
- ii) reply to the representations in writing and if rejected give detailed reasons for rejection.

Consultation will take place with the Trade Union(s) appropriate to the employees affected, whether or not any of the employees are Trade Union members.

“Employees affected” means employees who are at risk of redundancy and those affected by measures associated with the redundancies eg employees taking on re-allocation work.

Employees on maternity/adoption leave, long term sickness absence, secondment and career breaks will also be formally consulted and appropriate arrangements put in place, eg inviting them to meetings, sending information to home addresses, visiting employees at home or communicating through appropriate representatives.

These requirements also apply when it is proposed to terminate contracts and offer re-engagement in order to implement changes in terms and conditions on which it has not been possible to reach agreement.

The number of informed individual and collective meetings throughout the formal consultation process should be appropriate to the scale and weight of change proposed to ensure that employees and School based Trade Unions are given sufficient opportunities to consider the proposals, ask questions and suggest alternative options. Headteachers should keep a record of dates, time of meetings, details of attendees and notes of the meetings.

The County Secretary (or representative) of Professional Association and Trade Unions should be invited to formal consultation meetings and employees are entitled to be represented by a Trade Union representative or a work colleague at individual meetings.

Form HR1

Proposed redundancies of 20 or more employees at one establishment in a 90 day period must be notified to the DTI on Form HR1. A copy of the HR1 should also be given to Regional Trade Union officials or other employee representatives who were consulted, and also be copied to the Local TU branch as good practice.

Individual Consultation

Individuals will also be consulted about impending redundancies at the earliest opportunity; be kept informed as fully as possible, and consulted on ways of avoiding redundancy, selection methods and possible alternative work.

Any employee(s) directly affected, for example if their job is proposed to be deleted, must be advised individually **before** any collective meeting.

- 5.1.7 The Governing Body will, as required by law, notify the Strategic Director, Children and Younger Adults of any teaching vacancy and the associated job specification. The Strategic Director, Children and Younger Adults or representative will have access to such information in identifying any potentially suitable appointments against which to nominate employees for consideration by other Governing Bodies.

5.2 Voluntary Redundancy

- 5.2.0 After discussions with all employees, the Headteacher will proceed to more detailed discussions with the employees likely to be affected. All the possibilities of securing reductions will be examined, including early retirement with actuarially reduced benefits, voluntary redundancy, job share and applications for reduction in hours. The implications of any such offer will be clearly explained to individuals.

- 5.2.1 The Governing Body will co-operate with the Authority in operating a Countywide redeployment procedure.

5.3 Selection Procedure

- 5.3.1 If, after these consultations, insufficient employees wish to volunteer for redundancy or redeployment the Headteacher will report the position to the Governing Body and the Strategic Director, Children and Younger Adults or representative. The Governing Body will delegate its First Committee, consisting of three of its members, to apply its agreed redundancy criteria, identify redundant posts and postholders and hear any written and/or oral representations which will be invited from individuals. The First Committee will be advised by the Headteacher and the Strategic Director, Children and Younger Adults or representative.

This Committee will also be delegated responsibility for considering any voluntary option which may be formally requested after the consultation meeting.

- 5.3.2 The First Committee will meet to identify redundant posts and postholders.

5.3.3 The First Committee will, by the next working day, notify in writing the employees identified and the relevant Trade Unions and Professional Associations of their intention to make their post redundant and the right of the employees to make written and/or oral representation to the First Committee.

The employee(s) will receive at least 5 working days' notice of the meeting and will be informed in writing of the place, date, time and purpose.

5.3.4 The First Committee will consider any written and/or oral representations before reaching a decision and will inform in writing all employees concerned and relevant Trade Unions and Professional Associations of their decision by the next working day and, where applicable, the right of appeal.

5.3.5 In the event of an appeal against the decision of the First Committee, this must be made in writing to the Clerk of the Governing Body or nominee setting out the grounds of the appeal within 10 working days of the Committee's decision. This appeal will be heard by an appeal committee consisting of the Governing Body, excluding all members of the First Committee and all other Governors involved in the decision or who have declared an interest which might influence the outcome. The Appeal Committee should have more than 3 members. If the Governors identify that there will be insufficient governors available to provide 3 for the First Committee and at least the same number, preferably more for the Appeal Committee then it is possible to elect 2 Governors for the First Committee. This should only be applied in exceptional cases when the number of eligible Governors is severely constrained by issues like declarations of interest or illness.

5.3.6 The meeting will be called within 5 working days of receipt of the formal appeal notice, or by mutual agreement as soon as practicable thereafter. The employee will be informed in writing of the place, date, time and purpose of the meeting.

5.3.7 The employee will be entitled to attend the Appeal Committee with a Trade Union or Professional Association representative or friend who may present the appeal on behalf of the employee.

5.3.8 The Strategic Director, Children and Younger Adults or representative shall be entitled to attend the meeting for the purpose of offering advice to the Appeal Committee (see appendix 5).

5.3.9 The Appeal Committee may uphold the appeal or confirm the original decision.

5.3.10 An appeal decision by the Appeal Committee will be final.

5.3.11 The Appeal Committee will determine the appeal and inform the individual employee, relevant Trade Unions and Professional Associations and LA in writing of its decision by the next working day.

5.4 Notification of Redundancy

5.4.1 The Governing Body will inform the LA in writing of its decision, the reason for the decision, and the date of its implementation.

- 5.4.2 The LA is under a duty, where appropriate, to issue a notice of dismissal within 14 days of being notified by the school of the decision.
- 5.4.3 The Strategic Director, Children and Younger Adults or representative will be asked to make arrangements for individual employees to discuss possible vacancies and measures that are available mitigate the consequences of redundancy.

REDUNDANCY CRITERIA FOR TEACHERS

Flagg Nursery School

1. Overriding Considerations

The overriding considerations in the selection procedure are:-

- a) The curriculum, pastoral and management needs of the school in respect of meeting the demands of the National Curriculum and the School Improvement Plan.
- b) In order to meet the above and its statutory requirements, Flagg Nursery School has determined the following to be essential posts within its existing staffing structure:-

In addition to the Head, the governors consider the posts of **Teacher** as essential for the management of the school.

2. Criteria

The governors will consider the following criteria in order to adjust staffing levels.

Fixed Term/Temporary Contracts

All fixed term contracts of less than four years' continuous duration, which have a termination date before the day on which any proposed redundancies will take place, should be confirmed as terminating on the end date of the contract, unless required to meet curriculum delivery.

REDUNDANCY CRITERIA – SUPPORT STAFF

Flagg Nursery School

3. Overriding Considerations

The Governors will first consider whether the need to identify staffing reductions should be linked to a review of the staffing structure.

The overriding considerations in the selection procedure are:-

- a) The curriculum, pastoral and management and administrative needs of the school in respect of meeting its statutory responsibilities including the School Improvement Plan.
- b) In order to meet the above and its statutory requirements, **Flagg Nursery School** has determined the following to be essential posts within its existing staffing structure:-
 - ***Little Links Manager – whilst extended services are operational.***
 - ***Teaching Assistant posts where the contract is linked to a statemented child.***
 - ***School Business Manager / Clerk / Secretary***

4. Criteria

The governors will consider the following criteria in order to adjust staffing levels.

4.1 Fixed Term/Temporary Contracts

All fixed term contracts of less than four years' continuous duration, which have a termination date before the day on which any proposed redundancies will take place, should be confirmed as terminating on the end date of the contract, unless required to meet curriculum delivery. (Schools will need to check employee's contract history, as if the fixed term contract, was a renewal of a previous fixed term contract then the period of 4 years may have been exceeded).

In all cases it is very important to consult with HR as employees' circumstances and employment history can be complex so determining their rights may require expert analysis).

Model Selection Criteria

Governors will identify a staffing structure that determines the number of support staff/hours required for the school to meet the requirements of the national curriculum, the School Improvement Plan, the effective management of the school and/or to meet health and safety requirements.

- i. When the number of **staff/hours** available in a particular **post/scale/level** is less than or equal to the **numbers/hours** required by the new structure, then these staff will be required as essential to the delivery of the **curriculum/school improvement plan/effective management/meeting health and safety requirements** of the school and removed from the pool of consideration for compulsory redundancy.
- ii. Where the number of available **staff/hours** in a particular **post/level/scale** is greater than the **number/hours** required by the new structure then these staff will be potentially at risk and will form the pool from whom a selection will be made for compulsory redundancy.

Selection Criteria

In selection of an individual from the available pool to be identified for compulsory redundancy, governors will award points as follows:

- i. **[1] point for each year of service up to 5 years. Service is defined as continuous service in that type of role within the maintained sector (for teaching assistants service as an education care officer will also be used). Only service on a contract of employment will be considered.**
- ii. **[1] point(s) for a recognised essential qualification for a particular post/establishment.**

[Items in square brackets, in particular, will be determined by the Governing Body in relation to the school's context.]

The employee with the least points will be selected.

There is a further generic tie breaker detailed below.

Applying the Criteria

Following selection of an individual, consideration will then be given to the impact of this decision on the curriculum and school management. If an individual is selected and the consequence of his/her selection is that an area of the curriculum and school management would not be able to be delivered, governors would then move to the next person using the criteria identified above.

Tie breaker

EITHER

If this is not sufficient to enable the Governors to reach a decision, then last in, first out, will apply which will be interpreted as the total cumulative service on a contract of employment (in whatever role) at the school.

OR

If this is not sufficient to enable the governors to reach a decision, then last in, first out, will apply which will be interpreted as the total cumulative service on a contract of employment (in whatever role) with Derbyshire Local Authority.

Flagg Nursery School

REDUNDANCY CRITERIA

STAFF PROFILE

The information you provide on this form will be used to determine the staffing reduction within Flagg Nursery School this year. It is, therefore, essential that this form is completed accurately and in full. Failure to return a completed form will mean that the Headteacher will complete one on your behalf. All information provided will be checked and validated by the Headteacher and the employee. The LA may be asked for advice.

The form relates directly to the Criteria agreed by the Governing Body. Employees with the least service as defined in the criteria will be identified as potentially surplus to the school's requirements.

This form must be submitted to the Headteacher by:

[Time]: _____ am/pm on **[Date]** _____

Name: _____ Post: _____

Criteria

Present Post(s)**	Scale/Level	Hours	Permanent/Fixed Term/Temporary	HT	LA*

** If you have more than one post in the pool of staff from whom a selection will be made for compulsory redundancy please use a separate line for each post.

Do not include other posts held – which are not subject to compulsory redundancy procedure.

Essential Qualifications

<u>Qualifications</u>	<u>Awarding Body</u>	<u>Date</u>

Previous continuous service in maintained sector

Only service on a contract of employment will be considered as contributing to the continuous service.

Local Authority	Role	School	From	To	Total Service in years and weeks	HT	LA*

Formalised Coaching/Mentoring Role

Please provide information confirming any formal CPD role you have undertaken with staff within the last 5 years, to

Category of Receiving Staff	Dates	Purpose

School Specific

(to be added by the School – depending on the criteria – or removed).

Training/CPD

Training Attended	Dates/Duration	Where Applied

Agreed by Headteacher _____

Agreed by Local Authority _____

Signed: _____ Teacher

Signed: _____ Headteacher

Signed: _____ LA*

* Only where the LA has been requested to give advice when there is a difference of opinion that cannot be resolved by the Headteacher and the teacher.

LEGISLATIVE TIMETABLE FOR REDUNDANCY PROCEDURE

		Possible Timescale	
		Working Days	Cumulative Working Days
1	Review Budget Plan	1	1
2	Informal Consultation with Staff and Trade Unions. Discuss voluntary release (VER/VR etc)	1	2
3	Governing Body agree budget, selection criteria, delegate authority to the Staffing Committee to undertake Selection Process, Authorise issue of Section 188 Notice.	5	7
4	Formal consultation with staff, Section 188 Notice issued to Trade Union.	1*	8
5	Complete initial discussions with staff, Personnel Officer and TU's	24*	32
6	Governors' meet to discuss consultation issues. Selection Committee identifies individual(s).	5*	37
7	Individual(s) notified and advised of rights of Representation.	1	38
8	Selection Committee hears and considers Representation.	5	43
9	Individual(s) notified of Decision and right of Appeal.	1	44
10	Last date to receive Appeal.	10	54
11	Agreed Panel hears Appeal.	5	59
12	Individual notified of outcome of Appeal. Last date to notify LA – Dismissal.	1	60
13	Last date for LA to issue Notice	10	70
14	Date of Dismissal.	60	130

* Minimum of 30 working days when 20 - 99 redundancies are being considered at an establishment.

NOTES

1. For the purpose of this procedure “working days” shall mean Monday to Friday excluding bank holidays and the time begins with the day of receipt but does not include the day of the hearing.
2. Notice periods are subject to length, and conditions, of service. For non-teaching employees notice would not necessarily coincide with the “end of term” dates applicable to teachers.
3. Governing Bodies should begin the procedure at the earliest opportunity to enable the maximum time for resolution.
4. The Strategic Director, Children and Younger Adults or representative will provide advice and guidance where appropriate and the will provide suggested latest dates for each stage in the redundancy procedure each year. These will be “suggested” as by negotiation and mutual agreement with employees, Trade Unions, Professional Associations and the LA it may be possible to vary dates for some actions.
5. It is important that Governing Bodies clearly identify, in the appropriate year’s diary, the specific latest dates for each action which must be met to comply with the requirements of legislation bearing in mind weekends and statutory holidays.
6. In specifying key dates it will also be necessary to manage particular problem periods such as school holiday dates, with reference to the potential availability difficulties of governors and individual employees.
7. Each of these aspects may mean procedures need to start early in the term prior to that in which any redundancy will take effect.

Appeals Procedure

1. Chair of the Appeals Committee introduces everyone and confirms that it is an appeal hearing.
2. Employee/representative present their appeal.
3. The Appeals Committee ask questions of the employee/representative.
4. The Head/Chair of Selection Committee ask questions of the employee/representative.
5. The Head/Chair of Selection Committee presents their case.
6. The Appeals Committee ask questions of the Head/Chair of Selection Committee.
7. The employee/representative ask questions of the Head/Chair of Selection Committee.
8. The employee(s)/representative(s) sums up their case.
9. The Head/Chair of Selection Committee sums up his/her case.
10. The employee/representative/Head/Chair of Selection Committee all withdraw.