

THE BLESSED EDWARD BAMBER CATHOLIC MULTI ACADEMY TRUST STAFFING REVIEW AND REDUNDANCY PROCEDURE

Background

1. Scope

This procedure shall apply to all employees employed by the Blessed Edward Bamber Catholic Multi Academy Trust

1.1 Definition of Redundancy

Section 139 of the Employment Rights Act 1996 defines redundancy as follows:

"For the purposes of this Act an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to:

- a) the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed, or*
- b) 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 the place where he was so employed, have ceased or diminished or are expected to cease or diminish."*

Any dismissal must therefore be *wholly* or *mainly* attributable to the above defined situations and no other situation. The three main situations, in an Academy context, are:

- a) closure (actual or intended) or reduction in size of the Academy as a whole;
- b) closure (actual or intended) or reduction in size of part of the Academy (eg closure of nursery or sixth form provision or department or a special unit);
- c) diminished requirement for employees to carry out work of a particular kind (eg learning support).

1.2 Statutory Rights and Duties

A redundant employee will be entitled to claim a statutory redundancy payment (if he satisfied the relevant criteria) which would be calculated according to age and length of service. The employee must have been dismissed by reason of redundancy and have two years' qualifying continuous employment at the effective date of termination.

The statutory redundancy payment is calculated according to actual salary, as follows:

- (i) one and a half weeks' pay for each complete year of service after reaching the age of 41;
- (ii) one week's pay for each complete year of service between the ages of 22 and 40 inclusive; and
- (iii) half a week's pay for each complete year of service after reaching the age of 18 but not having reached the age of 22.

An employee with two years' qualifying service may also be able to claim unfair dismissal if he has been dismissed. A potentially fair reason for dismissal will include redundancy. However, the Trust must further show in these circumstances that it acted reasonably when carrying out the redundancy (see below). This means

	THIS POLICY DOES NOT CREATE CONTRACTUAL OBLIGATIONS ON THE TRUST	
Page 1 of 6		

showing that the employee was warned as soon as possible about the impending redundancy, that they were consulted and were selected fairly. They should also have been offered suitable alternative employment if this was available.

All employees have the right to consult their union or professional association. The Trust will also work with recognised trade union representatives throughout the process.

1.3 Contractual Rights

A dismissed employee is entitled to receive notice of his dismissal. A redundancy situation is no different from any other dismissal in this respect. Notice will either be contractual or statutory (ie it will be statutory where the contractual notice is less than the statutory minima or where no notice is specified).

Where the correct period of notice is not given, the employee will be entitled to a payment in lieu of notice comprising salary and other contractual benefits.

2. Policy

The Trust recognises that all the employees can only perform their duties efficiently and effectively within a framework of confidence. The Trust will undertake at all times to use reasonable endeavours through forward planning and sound financial management to maintain security of employment. However, the Trust also has other duties and objectives with which it must comply and in particular, it will ensure that Academies within the Trust operate within their respective budgets as far as practicable. The Trust recognises that budgetary changes with significant implications may be outside its control but will seek to identify any budgetary shortfalls at the earliest possible opportunity. Where it anticipates problems, the Trust may seek advice from the Diocesan Schools Commission.

The Trust recognises the length of time needed to complete the redundancy process. In a normal Academy planning cycle, wherever possible, the Trust will start the process at the beginning of the Spring Term to enable notices for teachers to be given by 31 May to take effect on 31 August (ie the normal contractual date for departure). The termination dates for support staff are not restricted to the ends of terms.

This Policy and Procedure is designed to:

- a) ensure fairness and equity at all stages;
- b) maintain relationships through consultation and communication;
- c) avoid compulsory redundancies;
- d) avoid prejudicing the future employment prospects of employees nominated as redundant.

3. Procedure

3.1. Strategies for Avoiding Compulsory Redundancies

The Trust will consider the following options in determining whether compulsory redundancies may be necessary.

- a) Are there any volunteers for redundancy?
- b) Reviewing the continued need for temporary and casual contracts, the use of contract and supply staff and considering the non-renewal of these contracts or a reduction in usage to reduce budget spend?
- c) Are there any opportunities to redeploy staff to vacancies elsewhere in the Trust, subject to their suitability for the post?
- d) Can staff be retrained to perform other roles in the Academy or elsewhere in the Trust?
- e) Is the position likely to change through 'natural wastage' of other kinds, eg staff resigning to take up employment elsewhere.

Effective date: July 2017

Version 1.4

Blessed Edward Bamber Catholic Multi Academy Trust

© Catholic Education Service

	THIS POLICY DOES NOT CREATE CONTRACTUAL OBLIGATIONS ON THE TRUST	
Page 2 of 6		

f) Is there potential for and possibility of 'Job Sharing', part time working including the possibility of phased retirement where appropriate?

Staff will be notified as soon as it appears that a potential redundancy situation may exist. Consultation will take place as soon as is practicable and a senior member of the management team, usually the Headteacher will be assigned to deal with queries and concerns.

The Trust will endeavour to adopt an overall management approach, which recognises the genuine fears and concerns of staff and responds accordingly.

3.2. Identification that a Potential Redundancy Situation Exists

The Headteacher will gather all the relevant information to determine whether a redundancy situation exists. This will include but is not limited to:

- the budget statement;
- pupil forecasts;
- costs of current resources;
- staffing structures;
- curriculum plans;
- a report on other needs elsewhere within the Academy in question and across the Trust generally;
- the applicability of strategies to avoid compulsory redundancies.

The Headteacher will discuss these with the CEO/Executive Director and the Diocesan School's Commission, as necessary.

The Headteacher will submit a report on the data and his findings to the CEO/Executive Director.

3.3. Preliminary Action on Determination of a Potential Redundancy Situation

Where the CEO/Executive Director believes that a potential redundancy situation exists, he will inform the Board of Directors, prior to instructing the Headteacher to commence early consultation with staff and recognised trade unions.

The CEO/Executive Director will in conjunction with the Headteacher:

- inform staff and seek voluntary solutions to overstaffing
- inform recognised trade union representatives

In the event that the need for redundancy cannot be resolved through voluntary measures, then there will be formal consultation with the recognised trade unions conducted by the CEO/Exec Director. As part of this formal consultation with recognised trade unions the CEO/Executive Director will consult with trade unions on an appropriate set of fair and objective selection criteria and process.

3.4. Announcing the Redundancy Situation

The Headteacher should tell staff why there is a redundancy situation and what efforts have been made to prevent it. As soon as it becomes clear, they should also be told the number of staff who will be at risk of redundancy and the selection procedure that will apply. Staff should also be advised of the redundancy timetable.

The Headteacher must consider and record representations made by staff and the trade unions with regard to the proposed redundancies and genuinely consider these.

3.5. Selecting the Staff

Effective date: July 2017

Version 1.4

Blessed Edward Bamber Catholic Multi Academy Trust

© Catholic Education Service

	THIS POLICY DOES NOT CREATE CONTRACTUAL OBLIGATIONS ON THE TRUST	
Page 3 of 6		

Where there are not enough volunteers for redundancy, the CEO/Executive Director will select individual members of staff. Some staff will be 'self selecting' because they may be the only people performing the function identified as ceasing or their work will diminish, for example, where a member of staff provides support to an individual as part of an Education Health Care Plan.

Where there is a pool of staff at risk, selection will be in accordance with previously identified selection criteria.

The criteria must be objective and should be reasonably and fairly applied. The Trust will be careful to ensure that the pool of employees to whom the criteria are applied is fairly defined.

The chosen selection criteria must be capable of objective substantiation and of being backed up with evidence and data, for example, performance and attendance records. In consultation with the recognised trade unions, the Trust will apply the following selection criteria:

- (a) Curriculum, pastoral and organisational needs of the respective Academy and the Trust will be clearly identified;
- (b) Qualifications and relevant experience of staff, together with skills will be clearly identified, eg, qualifications; particular subject expertise; flexibility across subject areas as demonstrated either by current actual teaching and/or qualifications and/or past actual teaching; qualifications or experience in relevant subject areas; qualifications or experience to teach certain levels and additional relevant qualifications/training. This list is not conclusive but shows examples of factual matters capable of verification that may be applied in assessing the current staffing resources.
- (c) The needs of the Trust will be matched with the staff that are available using criteria under (b) above.
- (d) Attendance record
- (e) Disciplinary record
- (f) Capability and underperformance
- (g) If all else is equal, then employees will be interviewed to assess in order to select for redundancy.

Proposals based on the above criteria should be made by the CEO/Executive Director, for consultation with the recognised trade union(s).

The trade unions must be given a reasonable time in which to respond (usually three working weeks). In this policy "working day" means any day on which you would ordinarily work. In other words it may be different for teaching and non-teaching staff. It will be different for full-time and part-time employees. The CEO/Executive Director must consider any representations made by the trade unions/professional associations and respond formally in writing, giving a reason for any representation not accepted.

The headteacher will inform staff at risk by letter and supply them with a staff audit form and a copy of the selection criteria, for completion and return within one week. The letter to staff will also set out the next steps in the timetable of the redundancy procedure, including the date and time of the meeting at which staff preliminarily selected for redundancy will be able to make representations and be accompanied/represented by representatives of their trade unions should they wish. The unions should also be notified of the time and date of this meeting at this stage.

The staff audit forms should be returned to the Headteacher, who should check and confirm the details of each completed staff audit form.

The Headteacher should also anonymise the audit forms before passing them to the CEO/Executive Director, who will then select staff for redundancy, against the criteria.

Each employee selected for redundancy will be informed in writing, giving them notice that they have been selected, setting out the reasons for the decision and giving them the opportunity to make representations against the decision.

The time and date of the meeting at which representations may be made should have been notified to employees at risk of redundancy and to the relevant trade union representatives. The Diocesan Schools

Effective date: July 2017

Version 1.4

Blessed Edward Bamber Catholic Multi Academy Trust

© Catholic Education Service

	THIS POLICY DOES NOT CREATE CONTRACTUAL OBLIGATIONS ON THE TRUST	
Page 4 of 6		

Commission may be invited to give advice to the CEO/Executive Director and subsequently, at any meeting of the Trust Appeals Panel.

The letter confirming that the employee has been selected for redundancy will give clear details about the termination date and terms of redundancy, including entitlement to redundancy pay, together with any payments in lieu of notice; any payments due for holiday entitlements not given, not taken; any accrued pay up to the date of termination and any ex gratia payments. The letter should also set out their rights with regard to reasonable time off to attend interviews and to be given assistance in finding a new job, if this is possible. The Diocese will be informed, as it may be able to assist with redeployment into the Catholic sector .

The letter should also advise the employee that he may appeal to the Trust Appeals Panel, if he has an objection to having been selected for redundancy or if he feels that the redundancy is not appropriate. The procedure for appeals is set out in Appendix 1.

If there is no suitable alternative employment available elsewhere in the Academy or the Trust, the employee will be informed. If there is suitable alternative employment, the employee will be notified of the details and a firm offer will be made. Any vacancy which could be offered to the redundant employee will be offered for consideration, even if it appears to be of lesser status and salary.

If an employee accepts an offer of alternative work within the Trust, they are entitled to a trial period of four weeks to assess suitability. They must be told of this right in writing. If, during this period, they decide to leave the employee retains their right to severance payments (unless the refusal to accept the work is unreasonable and the job is deemed to be suitable). If the employee is to be retrained, the trial period may be extended by agreement..

The redundancy notice period is the time between the date when an employee received his formal notice of termination and the date on which his employment is to be terminated. All teachers shall be under a minimum of two months' notice, and in the Summer term, three months', terminating at the end of an Academy term, as defined in the Conditions of Service for Academy Teachers in England and Wales, ie 31 August, 31 December and 30 April. Where a teacher has been continuously employed for more than eight years he shall be entitled to receive additional notice, as specified in the Employment Rights Act 1996. All Headteachers shall be under a minimum of three months' notice and in the Summer term, four months', terminating at the end of a Academy term as defined above.

4. REVIEW OF THIS PROCEDURE

This procedure was first produced September 2014 and follows the principles set out in the Catholic Education Service (CES) policy and procedure for use in Catholic Voluntary Aided Schools and Academies in England. It will be kept under regular review and any proposed changes will be the subject of consultation with the recognised trade unions.

	THIS POLICY DOES NOT CREATE CONTRACTUAL OBLIGATIONS ON THE TRUST	
Page 5 of 6		

Appendix 1: Appeals Procedure

An employee who believes that he has been selected for compulsory redundancy unlawfully or unfairly has the right of appeal to the Trust Appeals Panel.

The employee must provide written grounds of his appeal within five working days of receipt of the letter from the CEO/Executive Director confirming that he had been selected for redundancy. The grounds must set out the reasons for the appeal, which must relate to the application of the selection criteria or redundancy procedure. The notice of appeal should be sent to the Clerk to the Board. The appeal hearing should be held within ten working days of receipt of the employee's appeal, other than in exceptional circumstances when the parties may agree a later date.

The Clerk to the Board shall write to the employee confirming the date, place and time for the appeal hearing and advising him that he has the right to be represented/accompanied by a trade union representative or work colleague.

The Trust Appeals Panel shall comprise three members and shall hear the appeal. It may be advised by a representative from the Diocese who has not previously been involved in the procedure. The CEO/Executive Director which reached the decision shall be entitled to attend to respond to the appeal.

At the hearing, the Chair of the Appeals Panel shall first ask the CEO/Executive Director to put his case and the employee (or his representative) may ask questions about his evidence. Members of the Panel shall also be entitled to ask the CEO/Executive Director questions.

When the Panel is satisfied that it has no more questions at this stage, the Chair shall ask the employee (or his representative) to put his case. The CEO/Executive Director may then ask the employee about his evidence. Members of the Panel shall then also be entitled to ask the employee (or his representative) questions.

The Panel shall retire to consider the evidence, attended only by the Clerk and their advisers, and reach a decision. They may recall either the CEO/Executive Director or the employee (and his representative) for further questions if necessary. Further questions must be in the presence of all parties.

The employee shall be informed in writing not later than two working days after the hearing of the Panel's decision and the reasons for it by the Chair of the Appeals Panel. A copy of the decision letter should also be sent to his representative and to the CEO/Executive Director. The Trust Appeals Panel's decision shall be final.

Where the Panel upholds the employee's appeal, the Chair of the Panel shall write to the employee and withdraw notice of termination.

	THIS POLICY DOES NOT CREATE CONTRACTUAL OBLIGATIONS ON THE TRUST	
Page 6 of 6		