



# The Three Rivers

Learning Trust

<b>Name of Policy</b>	<b>Restructure and Redundancy</b>
<b>Policy Number</b>	<b>H4</b>
<b>The Three Rivers Learning Trust</b>	
<b>Named Person(s)</b>	<b>AVEC</b>
<b>Review Committee</b>	<b>Full Board</b>
<b>Last review date</b>	Spring 2021
<b>Next review date</b>	Spring 2024



## **Policy Outline**

### **What is the policy about?**

The Learning Trust is operating in a constantly changing environment. As an educational organisation, we need to be able to respond to both national/external initiatives and internal demands in order to deliver continuous improvement for the Learning Trust and its pupils.

It is inevitable that the Learning Trust will need to make changes to staffing levels or restructure services from time-to-time to facilitate this. Where staffing changes are necessary, the Learning Trust will seek to minimise the impact on employees wherever possible. The Learning Trust will consult with the recognised Trade Unions and employees at the earliest possible stage to enable them to influence the shape of the reorganisation and/or avoid the need for compulsory redundancies. Consultation will be made on a collective and/or individual basis; whichever is appropriate and in line with employment legislation in relation to the circumstances.

### **Who does this policy apply to?**

This policy applies to all staff within the Learning Trust.

### **Scope of the policy**

The aims of this policy are to:

- Establish a framework for the management of change, including managing potential redundancy situations;
- Ensure consultation with employees and trade unions commences at the earliest opportunity to enable them to influence change proposals;
- Ensure a consistent and equitable approach to managing change and appropriate communication of proposals;
- Enable employees to be supported during the management of change process.

The policy is separated into two sections. **Section one** deals with staffing restructures that do not involve staffing reductions and **section two** deals with managing potential redundancies.

### **Responsibility**

The Learning Trust, as the employer, has overall responsibility for the policy and for ensuring it is applied consistently and fairly.

### **Application of the policy**

This policy applies to all teaching and support staff. It does not apply to agency workers in the first twelve weeks of employment, consultants or self-employed contractors.

This policy applies when managing organisational change including;

- organisational structure reviews;
- reductions to or discontinuation of specific areas of work;
- major changes to terms and/or conditions of service.

Ongoing, minor changes to individual roles and responsibilities and/or working practices will occur from time to time. In these cases employees are expected to be flexible and adapt to reasonable changes appropriate to the level of their post. In such circumstances the Learning Trust's HR provider must still be involved and discussion and agreement reached with the individuals concerned including the trade unions, where appropriate. If an agreement cannot be reached the procedure contained in this policy will need to be followed

## **Representation**

A trade union representative, work colleague or friend can accompany employees to meetings. However it would not normally be reasonable for employees to insist on being accompanied by someone whose presence would prejudice any meetings, hearings or appeals or to delay meetings because a specific person is not available where there is another suitable person available

It is the **employee's responsibility** to arrange their representation and to notify their representative of any meeting, hearing or appeal dates in good time.

Decision makers, panel members and those hearing an appeal cannot have a family relationship with the member of staff involved and must be replaced by a suitable, unconflicted, person.

## **Equality**

The Learning Trust recognises its responsibility for ensuring equality and avoiding unlawful discrimination, both direct and indirect, against the 9 "protected characteristics" identified in the Equality Act 2012 of:

- Age
- Disability
- Gender Reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual Orientation
- Marriage and civil partnership

The Learning Trust will operate this policy consistently and in a non-discriminatory way.

## **Publicising/distribution of the policy**

New staff will be informed of the existence of this policy as part of their formal induction. Employees directly affected by restructuring and/or redundancy will be allocated a copy of this policy as part of the consultation process

## **Reviewing the policy**

This policy has been implemented following consultation with the relevant trade unions. It will be reviewed from time to time to ensure that it reflects legal obligations and the Learning Trust organisational, educational and business needs.

## **Section One**

### **Staffing Restructures**

#### **Underlying Principles**

It is the Chief Executive Officer's responsibility to review the staffing structures from time to time to ensure they remain relevant to the needs of the Learning Trust and within budgetary constraints. Consideration should be given to the broad objectives and principles that the Learning Trust is seeking to achieve with any new structure.

### **The Stages in the Process of a Staffing Restructure**

#### **Initial Stage**

The Chief Executive Officer will make the Board of Trustees aware that there is a need to review the staffing structure. The Board of Trustees will create a Hearing Body who will have the delegated responsibility for the detail, consultation and implementation of the restructure in conjunction with the Chief Executive Officer and the terms of reference for that committee.

The new staffing structure should not be regarded as definitive until it receives the final approval of the Learning Trust's Board of Trustees.

#### **Preparation of a draft Staffing Restructure**

The Chief Executive Officer will prepare a draft staffing restructure document which will include structure charts, new job descriptions, a rationale for the proposed changes and an implementation plan. The Board of Trustees will approve, amend or reject the draft.

The structure should contain all posts of responsibility, which the Chief executive Officer considers necessary to effectively execute the leadership and management of the Learning Trust.

The process is an opportunity to review the whole Learning Trust-staffing structure in

order to identify how teaching and learning can be led and managed in the most efficient and effective manner.

## **Designing the New Structure**

As a first step, the Chief Executive Officer will give consideration to the broad objectives and principles that the Learning Trust is seeking to achieve with the new structure. This will involve mapping the Learning Trust improvement priorities, together with the overarching principles, onto a structure of posts of different grades and types designed to deliver the Learning Trust priorities as efficiently and effectively as possible.

Costing the revised structure will be a crucial part of the process. In assessing this, the Chief Executive Officer will need to take into account the number and cost of each of the types of posts they wish to have in the structure, e.g. leadership, TLRs, support staff.

The review should take into account equal pay considerations and other equality considerations, so that potential legal challenges from individuals are avoided.

The revised staffing structure of the Learning Trust must have a clear and transparent rationale.

## **Creating posts in the new structure**

When considering the new staffing structure, the Chief Executive Officer will need to determine the relevant posts, in the following groups:

### **Leadership Group posts**

If leadership roles are to be created, the size and composition of this group will need to be determined as well as ensuring that the responsibilities and duties complement but do not replicate other posts in the structure.

### **Teaching and Learning Responsibility (TLRs) posts**

In the event that TLRs are required, it will be necessary to determine how many of each TLR type are required i.e. TLR1, TLR2 or TLR 3. In determining the level of responsibility which may be expected of a TLR post holder, close attention must be paid to the TLR criterion and factors as specified in the School Teachers' Pay and Conditions Document and the statutory guidance.

### **Associate Staff posts**

This will include the types of posts required including number required in each type. Each of the posts will require a draft job description, which should include;

- the grade and salary of the post;
- the purpose of the post;
- to whom the post holder reports;

- if appropriate, the staff that the post holder is responsible for managing.
- the generic responsibilities; and
- the responsibilities specific to the post.

Using the draft job descriptions to inform the decision, the Chief Executive Officer will need to indicate clearly (without at this stage putting names of the individual staff against posts) the following;

- which posts are new;
- which posts are largely unchanged and therefore almost an exact match to an existing responsibility;
- which posts are a combination of several responsibilities previously in the structure.

### **Consultation with Staff and Trade Unions on a restructure not involving redundancies**

Where a restructure could potentially lead to a staffing reduction and employees are at risk of redundancy the process and procedure outlined in **section two** should be followed. This includes the legal requirements in terms of the collective consultation required for dealing with compulsory redundancies.

Employees who are directly affected by the restructuring proposals should be consulted. Consultation with the Trade Unions will usually be with the recognised Learning Trust representatives, however in certain instances e.g. there is no in house representative, consultation should be with the full time official(s).

Following approval of the draft restructure by the Board of Trustees formal consultation with staff and trade unions should begin.

The draft structure, implementation plan and all other documents should be sent to the recognised trade unions and made available to staff, together with a clear indication of the timescale for comments and a reminder of what the next steps of the review will be.

Consultation is not the same as negotiation but neither is it simply a sharing of information. It is the opportunity for staff and trade unions to:

- a) understand the draft structure;
- b) seek clarification and more information if necessary;
- c) suggest changes to the proposal.

It is the Chief Executive Officer's opportunity to:

- a) help people understand the proposals;
- b) meet any reasonable request for more information;
- c) improve the proposal in the light of suggested changes.

The Chief Executive Officer will be:

- a) prepared to change the proposal;
- b) explain why they have decided to accept or reject each suggestion

### **Responses to the Draft Plan**

Responses to the draft plan should be in writing to the Chief Executive Officer and/or to the Chair of the Hearing Body and may be made in one of three ways:

- Directly by an individual colleague;
- Through a trade union representative;
- Through a line manager.

A reasonable timescale should be specified for the receipt of comments on the proposals. It is recommended that this should be a minimum of **ten** working days. The scale and size of the proposals should be taken into account when considering the timescale.

### **Individual meetings**

The Chief Executive Officer should meet with individual staff to discuss aspects of the review if a member of staff wishes to do so. It is strongly recommended that if a staff member asks for such a meeting to take place that they are advised that they have the right to be accompanied by a trade union representative, work colleague or friend who does not have a conflict of interest. Notes of the meetings will be taken and made available to the staff member after the meeting.

### **Adjustments**

The Chief Executive Officer should keep the staff and recognised trade unions fully informed of progress during the consultation period, so that their views and any representations can be taken into consideration. Adjustments can be made to the staffing structures to take account of new developments/suggestions during the consultation period if required, but any such changes would need to be the subject of further consultation.

The Chief Executive Officer should advise the Hearing Body of any amendments proposed as a result of the consultation, any proposals not incorporated and the reasons why.

If amendments are made which have not been consulted on, or there are concerns about some of the issues raised during consultation, which have not been resolved, the Hearing Body can decide on a further period of consultation with staff and recognised trade unions. Where this option is adopted, the staff and recognised trade unions should be notified in writing of the timescale of the extended period of consultation and the issues to be addressed during that period. The timescale of any further consultation should be proportionate to the scale of the amendments made by the Hearing Body but should in no case be less than five working days.

### **Overview**

Arrangements should be put into place for the Chief Executive Officer to keep the Board of Trustees aware of progress and of any adjustments to the proposals to maintain a clear overview of how all aspects of the restructure are progressing.

## **Implementation**

The new structure and implementation plan should be approved and adopted by the Board of Trustees.

## **Appointing to posts in the new structure**

There may be a number of ways in which employees are appointed to new/revised posts as part of the restructure. These are detailed below and can apply to both Teaching and support staff, depending on the circumstances. The method of appointment should be agreed by the Chief Executive Officer and the Hearing Body and be specified as part of the proposals for consultation.

## **New Posts**

Where a post is identified as a new post, it should be subject to the Learning Trust normal recruitment procedures.

## **Slotting In**

Where a post is largely unchanged and responsibility of one existing employee is already undertaking a substantial proportion of the duties, then that employee should be 'slotted in' to the post and will receive the pay and conditions of the revised post.

## **Ring-fencing**

Where a post is a combination of a number of existing responsibilities held by current employees, and/or there is more than one employee already undertaking a substantial proportion of these duties then the post should be ring-fenced and appointed from that group following interview.

## **Preference Exercises**

In situations where there are to be a number of changes to staffing structures/posts, an employee may have a number of options as to where they could work following a restructure. In such cases, a preference exercise may be undertaken to help facilitate the change. Employees will be provided with a revised staffing chart and advised of all the posts for which they are eligible to be considered. Employees will then be given a reasonable amount of time in relation to each particular situation to consider their options and advise the Chief Executive Officer which posts they would like to be considered for.

This may involve giving an order of preference. In such cases, the Learning Trust will take into account the employee's first or second choice wherever possible. Depending on the outcome of the exercise, the Learning Trust will then either slot employees into posts or undertake ring-fenced recruitment, as specified above.



## **Moving to Other Teams and/or Departments**

In some cases, reorganisations or changes to posts may mean that an employee's post moves over to a different team or department. These may not necessarily involve any major changes to terms and conditions of employment, given that the employee would be working for the same organisation. However, the employees concerned will naturally be consulted about such changes and their views taken into account where possible.

Those employed by the Learning Trust when the area of work moves to another organisation automatically become employees of the new organisation on the same terms and conditions. As such, employees' continuity of employment is preserved. The Learning Trust will naturally inform the trade union of any employee(s) likely to be affected by such transfers and consult them about any measures that the Learning Trust or the partner organisation envisages taking concerning affected employees, in accordance with the TUPE Regulations.

## **Substantive Post**

Employees who are undertaking another job role on a temporary or seconded basis or who are in receipt of temporary additional duties will be deemed as being in their substantive job for the purpose of establishing: -

- jobs which are proposed as being deleted;
- ring-fencing and slotting in arrangements.

Unless there are any exceptional circumstances, which will be considered on an Individual basis an employee's substantive job role will need to be a significant part of the proposed job(s) for an employee to be either "slotted-in" to or be part of a "ring fencing" arrangement.

## **Employees on Maternity Leave or equivalent**

Employees on maternity, paternity or adoption leave etc. and those absent due to sickness must also be included in the consultation process. Consideration must be given to effective communication.

There is protection in law for women on maternity leave in a redundancy situation. Where an employee is ring-fenced to a job(s) as part of the appointment process to a new structure they will be expected to participate in the process and will not be slotted-in by virtue of "Maternity" reasons. Preferential treatment will commence when an employee is in notice of dismissal (on the grounds of redundancy) or has been informed in writing of their dismissal meeting. This also applies to employees on additional paternity leave and adoption leave.

## **Temporary employees**

Temporary employees, including those on a fixed term contract, will generally NOT be considered for slotting-in or ring fencing to jobs in a new structure where the employee has less than 2 years service, with the Learning Trust (or an associated employer) at the start of the consultation period.

## **Salary Safeguarding**

### **Teachers**

All salary protections are set in accordance with the safeguarding arrangements and are subject to a 3 year maximum in line with the School Teachers' Pay and Conditions Document.

Where a TLR is no longer payable or is reduced as a result of a staffing restructure, it will be safeguarded in accordance with the safeguarding arrangements as described in the School Teachers' Pay and Conditions Document.

### **Support Staff**

If a staff member is deployed into a lower graded post, and holds a permanent contract, the Learning Trust salary protection scheme will apply.

## Section Two

### Redundancy

The need for staffing reductions is likely to be driven either by finance and/or a curriculum needs. The responsibility for identifying the problem rests with the Chief Executive Officer who should make the Board of Trustees aware of the situation as early as possible.

In doing so the Chief Executive Officer will reference evidence such as

- previous two years budget statements
- previous and current financial years budget proposals
- financial statements
- updated statement on the current budget
- budget outturn figures

Curriculum information includes:

- timetable details
- class and pupil numbers
- staffing structures
- pupil/teacher ratios
- projected pupil numbers
- projected changes if reductions occur
- details of any temporary appointments

These are not comprehensive lists but cover the minimum information required to identify the nature and scale of the problem.

Measures for avoiding or minimising compulsory redundancy should already be in operation and should be re-examined as an alternative e.g. natural wastage, reducing or eliminating overtime, restrictions on recruitment, re-training/redeployment within the Learning Trust, making temporary arrangements to cover vacancies etc.

It may be that a staffing restructure may either avoid the need to make compulsory redundancies and/or reduce the number of potential redundancies. Further information on restructuring is included at **section one**, including salary safeguarding provisions where an employee suffers a reduction in salary.

It is important that the Board of Trustees have sufficient information to establish the nature of the problem and do not simply endorse the Chief Executive Officer's assessment of the situation. However, it is also important that the Board of Trustees do not get involved in the details at this time and hence prejudice their role if they

were part of any subsequent appeals committee.

If there is no alternative but to consider a reduction in staffing the Board of Trustees will create a Hearing Body who will have the delegated responsibility for the responsibility for the detail, consultation and implementation of achieving the necessary reduction in conjunction with the Chief Executive Officer and the terms of reference for that committee

A draft project plan for dealing with redundancies is attached at **Appendix 1**. A table showing responsibility for action is attached at **Appendix 2**.

### **Definition of Redundancy**

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. (section 139 (1) Employment Rights Act (ERA 1996).

### **Voluntary Redundancy**

It is not an intention of the "change management " process to facilitate voluntary redundancy opportunities, although there may be occasions where this is appropriate or necessary to avoid compulsory redundancies and expressions of interest may be requested. Selection of volunteers for redundancy shall be at the discretion of the Board of Trustees and shall be determined by the Learning Trusts requirements to retain key skills and experience to meet the present and anticipated needs of the Academy.

### **Communication**

Effective communication with staff is crucial in managing any workforce change. Where practical, informal consultation regarding any changes affecting staff should begin at the earliest opportunity. This will be directed to all staff and not just those who may potentially be affected by the changes. Such informal consultation may consist of a staff meeting being convened by the Chief Executive Officer in order to discuss issues which could lead to redundancies at a later date. Staff should be asked for any suggestion on how to avoid potential redundancies.

The Learning Trust recognises that is often a time of concern and worry for all interested parties but especially for employees affected by the proposals and as such will do it all it can to support employees affected by the process.

### **Collective Consultation**

The law states that when proposing to make redundant **20 or more employees at one establishment within 90 days**, an employer must:

- consult with any recognised trade union or, if none, with other elected employee representatives;
- consult on ways of avoiding dismissals, reducing the numbers to be made redundant and mitigating the effect of the dismissals;
- disclose in writing to the appropriate representatives certain information concerning the proposed dismissals.

Consultation should begin in good time and must begin:

- **at least 30 days** before the first dismissal takes effect if **20 to 99 employees** are to be made redundant at one establishment over a period of 90 days or less
- **at least 45 days** before the first dismissal takes effect if **100 or more** employees are to be made redundant at one establishment over a period of 90 days or less.
- the Secretary of State for Business, Innovation and Skills must be notified at least 30 days (for 20 to 99 employees) or 45 days (100 or more) in advance of the first dismissal taking effect (known as a HR 1). The employees cannot be given notice of dismissal until the Secretary of State has been notified.

The timescales given above are the **minimum for formal consultation**, however the timescale for carrying out this procedure should be considered carefully in terms of both what is required for the consultation to be seen as being meaningful and also for the Learning Trust to be able to issue notice to any staff who are made redundant.

There is no set period for consultation to end. It can go beyond the prescribed minimum periods between the start of consultation and the dismissals taking effect. The key point is not how long the consultation lasts, but that it is meaningful while it lasts.

In addition to the consultation with the trade unions there will also need to be full consultation with all the staff affected by the proposals, both collectively and individually. Some staff may not be members of a trade unions but will have the same right to be fully consulted as those who are members.

Affected staff absent due to sickness, maternity leave and any other statutory leave will need to be included in the consultation process. There is protection in law for women on maternity leave in a redundancy situation. Where an employee is ring-fenced to a job(s) as part of the appointment process (as outlined in **section one**) to a new structure they will be expected to participate in the process and will not be slotted-in by virtue of "Maternity" reasons.

Preferential treatment will commence when an employee is in notice of dismissal (on

the grounds of redundancy) or has been informed in writing of their dismissal meeting. This also applies to employees on additional paternity leave and adoption leave.

### **Fewer than 20 Redundancies**

If **fewer than 20 redundancies** are being proposed it will be necessary to follow a fair procedure in relation to each employee at risk of redundancy, including looking at ways to avoid any redundancy and consulting with the relevant trade union(s).

In addition to the consultation Individual employees at risk of redundancy have the legal right to be informed in writing that they may be dismissed by reason of redundancy, an individual meeting and a right of appeal.

In order to ensure that all employees are treated fairly and consistently the Learning Trust will follow the process outlined in this policy for all potential redundancies regardless of how many staff are affected, including giving a minimum 30 day consultation period.

#### **6. Section 188 Notice**

The Learning Trust must issue a Statutory Notice under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, to the recognised trade unions about potential redundancies if they propose to make more than **20 employees** redundant. In practice many Schools/Academies also issue one for redundancy proposals involving less than 20 employees.

The section 188 notice acts a key document in the consultation process as it provides the Trade Unions (and staff) with relevant information such as

- numbers and descriptions of employees affected;
- proposed method of selecting the employees who may be dismissed due to redundancy;
- proposed method of carrying out the dismissals, taking account of any agreed procedure, including the period over which the dismissals are to take effect;
- how redundancy payments, other than the legal minimum, will be calculated;
- the recruitment methods to be used for new/changes posts arising out of a restructure.

An example Section 188 letter is attached at **Appendix 4**.

### **Identification of pool and criteria for selection for redundancy**

In identifying a need to reduce staff, the decision needs to be made as to what is to constitute the 'pool' from which a reduction will be made. Defining the pool is an important step. It may be that the 'pool' is the teaching staff of the Learning Trust or a certain category of the teaching staff as this is where a surplus of staff exists. Or the 'pool' may be in the "support staff" or even more specifically, within a certain category of support staff, where there are a number of employees.

The establishment of criteria used in the selection of staff for redundancy is also of great importance. As indicated above, there must have been consultation on the criteria with the relevant Trade Unions. The criteria must be transparent, objective and non-discriminatory. Further information on the pool and selection criteria is attached at **Appendix 4**.

### **Nominations for redundancy**

The Hearing Body will meet to apply the agreed selection criteria to determine which post(s) is/are to be proposed for nomination for redundancy. The Chief Executive Officer will be present to give professional advice. The Academy's HR adviser may also be present. Decisions will be made by the Hearing Body. Staff may be required to complete personal profile forms in order for their skills and experience to be matched against the selection criteria. Examples of personal profile forms for both teaching and support staff are attached at **Appendix 5 and 6**.

The Hearing Body will ensure that they each have the same understanding of each selection criteria. The selection criteria will be applied with care and in a fair, objective and non-discriminatory way.

Once the nominations have been made the Chief Executive Officer will advise, in writing, the relevant staff member(s) of the proposal to nominate their post for redundancy, of their right to a written statement of reasons and their right to make representations to the Hearing Body.

### **Representation Hearing**

An employee wishing to exercise his/her right to make representations must notify the Chief Executive Officer in writing within **five working days** of the date of their written notification of the nomination. Arrangements will be made for the Hearing Body to be convened as soon as possible. The staff member can be represented at this meeting.

At least **five working days** before the Hearing Body meeting, the nominee and his/her representative will be given copies of the notes of the first Hearing Body meeting (with all references to other staff removed) and the selection criteria assessment. The employee will also provide to the clerk to the Board of Trustees any documentation

he/she wishes to be considered at the meeting at least **three working days** before the meeting.

The Chief Executive Officer will be in attendance at the representation meeting. Their role in the hearing will be to give advice and information. The Learning Trust's HR adviser may also be present. The Hearing Body will explain the reasons for the provisional selection and will:

- Allow the staff member or their representative to make representations;
- Clarify any points arising;
- Give full consideration to its provisional decision.

### **Notice of dismissal**

Where redundancy is confirmed, employees will be entitled to notice of termination of employment in accordance with the terms of their contract of employment as specified below;

- **Support Staff** - Statutory entitlement to 1 weeks notice per year of continuous service up to a maximum of 12 weeks (and subject to a minimum of 1 month for most school support staff)
- **Head Teachers** - 3 month's notice (4 in the summer term) ending on 31 December, 30 April or 31 August as appropriate
- **Other Teachers** - 2 month's notice (3 months in the summer term) or statutory notice if that exceeds contractual notice see above ending on 31 December, 30 April or 31 August as appropriate.

### **Appeals**

Employees given notice of dismissal due to redundancy are entitled to appeal against this decision. Appeals will be heard by Hearing Body and should be submitted in writing, giving the reasons for the appeal, within five working days of receipt of the notice of dismissal.

Appeals Committees must be able to explain their decisions in the light of information heard at the appeal meeting. Members of the committee must not have been members of the initial committee and as far as is reasonably practicable should have had no involvement in or knowledge of the process up to the time of the meeting. Although they are reviewing the decisions of other trustees, this must not affect their thinking with regards to their responsibility to overturn any decision that they do not feel to be fair and/or reasonable.



There are two broad areas for redundancy appeals committees to consider.

1. Do the Appeals Committee consider that there is a genuine need for redundancy, e.g. on curriculum/financial grounds?
2. Has the process followed been applied fairly and reasonably, e.g. was the pool of selection fair, were the criteria applied in a fair manner?

Appeals Committees rapidly become aware that in the course of probably one meeting they are reviewing decisions taken over a series of meetings by the initial committee. They need therefore to take time and ask all the questions they feel necessary, remembering that fairness and reasonableness in relation to the appellant are the over-riding principles and may be questioned in an employment tribunal if an employee feels they have been unfairly dismissed

### **Redundancy Payment**

An employee must have two years' continuous service (at the relevant date of redundancy) with the Learning Trust (this will include continuous employment with bodies on the Redundancy Modification Order) to qualify for a redundancy payment. Where redundancy is confirmed, employees will be given notice of termination of employment in accordance with the terms of their contract of employment up to a maximum of twelve weeks.

### **Redundancy Modification Order**

Where an offer of employment is made by another employer, who is part of the Redundancy Modification Order, and accepted by an employee before their dismissal takes effect, the employee will lose their entitlement to a redundancy payment if the employment starts within 4 weeks of that date.

### **Redeployment and suitable alternative employment**

The Learning Trust has a legal responsibility to mitigate compulsory redundancies and must actively pursue options for alternative work for nominated employees. There is no requirement to create a job specifically for this purpose or to offer a job, which does exist, but for which the employee is objectively unsuitable i.e. does not have the relevant experience/qualifications. However the employee must be fully considered for any appropriate vacancy. The employee should also be considered for a suitable post currently occupied by an employee who wishes to apply for voluntary redundancy/early retirement.

The search for alternative employment should begin once the employee has had confirmation of their nomination for redundancy and should continue throughout the notice period.

Where an employee is offered suitable alternative employment and unreasonably refuses to accept it they may lose their right to a redundancy payment. Any suitable alternative employment should be subject to a 4-week trial in the post. This trial period may be extended to allow for retraining.

### **Time off work**

An employee who is given notice of dismissal on grounds of redundancy and who has at least two years continuous service by the end of the notice period has a legal right to reasonable time off with pay during working hours to seek new employment or to arrange retraining.

The table provided below provides detail of the project plan for overseeing staff redundancies, as well as the timescales involved:

<b>REDUNDANCIES PROJECT PLAN</b>		
	<b>Pre-planning</b>	<b>Week Commencing</b>
	<ul style="list-style-type: none"> <li>• Chief Executive Officer reviews the curriculum plan and budgets</li> <li>• Reviews staffing structures and workloads.</li> <li>• Drafts project plan and timescales</li> </ul>	
	<b>Trust Board Update</b>	
	<ul style="list-style-type: none"> <li>• Board of Trustees review of cost improvement plan and proposals to move towards formal consultation. Agree original members of the Hearing Body sets/reviews terms of reference and confirm that they have delegated authority to carry out the process and that staffing reduction is still necessary.</li> <li>• Discuss VR scheme</li> </ul>	
	<b>Phase 1</b>	
	<ul style="list-style-type: none"> <li>• Inform Unions of need to consult on potential reductions in staffing.</li> <li>• <b>Chief Executive Officer</b> to inform staff of need to enter into consultation with Unions (inform staff more likely to be affected by proposals prior to whole staff briefing)</li> </ul>	
	<b>Meeting with TU's</b>	
	<ul style="list-style-type: none"> <li>• Meeting between Management and Trade Union representatives to confirm the need for staffing reduction, discuss process, timelines and any proposed selection criteria.</li> </ul> <p><b>Chief Executive Officer, HR Advisor, TU representatives</b></p>	
	<b>Formal Confirmation of Redundancies (Section 188)</b>	
	<ul style="list-style-type: none"> <li>• Numbers at risk and potentially redundant confirmed.</li> <li>• Consultation period confirmed</li> </ul>	

	<ul style="list-style-type: none"> <li>Initial consultation includes Voluntary Redundancy Applications if applicable</li> </ul>	
	<b>Phase 2</b>	
	Staff <ul style="list-style-type: none"> <li>Communicate with Curriculum trustees to brief them on proposals.</li> <li>Communicate with temporary and fixed term staff where contracts will not be continued.</li> <li>Communicate with potentially at risk staff.</li> <li>Continue to keep wider staff informed of events.</li> <li>Invite alternative ideas comments etc. from staff as well as TU's</li> </ul> Trade Unions <ul style="list-style-type: none"> <li>Consultation meetings between Management and Trade Union representatives.</li> <li>Written comments invited from Trade Union representatives (mitigation / avoidance of redundancy / proposed selection criteria).</li> <li>Consider applications for VR</li> <li>Agree selection criteria.</li> </ul>	
	<b>One to One Meetings with Staff</b> <ul style="list-style-type: none"> <li>Chief Executive Officer holds individual discussions with members of staff and Trade Union representatives.</li> </ul>	
	<b>Phase 3</b>	
	<ul style="list-style-type: none"> <li>Meeting of the Hearing Body to consider and respond in writing to any alternatives / feedback on selection criteria.</li> <li>Decide if there is a need to still go ahead with proposals/consider counter proposals.</li> </ul>	
	<b>Outcome(s) of consultation communicated</b> <ul style="list-style-type: none"> <li>Trade union meeting to discuss outcomes of consultation / voluntary redundancy – Hearing Body/ Chief</li> </ul>	

	<p>Executive Officer (support from HR Advisor)</p> <ul style="list-style-type: none"> <li>• Amend/ agree final selection criteria- Hearing Body (<b>support from HR Advisor</b>)</li> <li>• Prepares a written response –Hearing Body (<b>Support from HR Advisor</b>)</li> <li>• Communication with staff and TU’s to inform of Hearing Body decision – <b>Executive HT (support from HR Advisor)</b></li> <li>• Meets with affected staff to answer any questions and provides final version of criteria – Executive <b>HT (support from HR Advisor)</b></li> </ul>	
	<p><b>Selection criteria application</b></p> <ul style="list-style-type: none"> <li>• Staff provided with selection criteria and personal information sheets for completion- <b>Chief Executive Officer.</b></li> <li>• Deadline agreed for completion –<b>Chief Executive Officer.</b></li> </ul> <p><b><u>Selection Process</u></b></p> <ul style="list-style-type: none"> <li>• Nominations for redundancy considered by the Hearing Body based on application of selection criteria. Consider any voluntary redundancy requests or alteration to working arrangements.</li> <li>• Hearing Body meets individually with each member of staff and their representatives if they wish (<b>Support from HR Advisor</b>)</li> <li>• Assess information on each member of staff and apply selection criteria to identify staff proposed for redundancy- Hearing Body (<b>Support from HR Advisor</b>).</li> </ul>	
	<p><b>Outcome(s) of selection criteria communicated</b></p> <ul style="list-style-type: none"> <li>• Staff informed verbally and in writing of the outcome and right to a hearing (5 working days allowed to request a hearing) <b>Chief Exec/HT .</b></li> </ul>	

	<ul style="list-style-type: none"> <li>• Redundancy figures provided - <b>HR Provider.</b></li> </ul>	
	<p><b>Phase 4</b></p> <ul style="list-style-type: none"> <li>• Convened, if required, to hear any representations from staff proposed for redundancy. Convened within <b>10 working</b> days of request for a hearing.</li> <li>• Employee informed verbally after meeting whether decision is to proceed or not (<b>in writing within 5 days</b>).</li> <li>• <b>Five working days</b> given to express right of appeal (must be provided in writing).</li> </ul>	
	<p><b>Phase 5</b></p> <ul style="list-style-type: none"> <li>• Notice Issued.</li> </ul>	
	<p><b>Phase 6</b></p> <ul style="list-style-type: none"> <li>• Convened if required to hear appeal(s).</li> <li>• Must be convened within <b>15 working days</b> of receipt of appeal.</li> <li>• Papers issued <b>5 working days</b> in advance of appeal hearing.</li> <li>• Decision made to uphold, or refer back to Hearing Body with reasons.</li> <li>• Notify employee of outcome in writing.</li> <li>• Decision is final. No further right to appeal</li> </ul>	

**APPENDIX 2  
EXAMPLE SUMMARY SHEET**

**Responsibility For Action**

1. **Initial Action**

**Chief Executive  
Officer**

Identifies if there is potential for a budget and/ or curriculum problem  
Alerts Finance Committee

2. **Initial Consultation**

(a **Board**           **of**  
) **Trustees**

Reviews financial/curriculum information  
Considers alternatives to reductions in staffing e.g. recruitment freeze, natural wastage

If no alternatives delegates the matter to the Hearing Body

Appoints Appeal Committee

(b **Chief Executive**  
) **Officer**

Alerts staff and unions.

Meets with staff to explain situation and request any suggestions to resolve the problem.

3. **Formal Consultation (Proposals)**

(a **Hearing Body**  
)

Examine the problem in the light of current situation.

Decides if formal redundancy consultations are still necessary.

If so makes decisions (in accordance with their terms of reference) on areas such as:

- pool of selection
- selection criteria
- effective date of potential dismissals etc.

- (b **Chief Executive Officer**)  
Informs staff and unions in writing of Committee proposals and background information, e.g., budget statements, minutes of meetings (Section 188 letter if required). Arranges TU meeting.  
Meets with staff to explain the proposals  
Prepares any further information on the budget/curriculum that may be required for the next Committee meeting.

#### 4. **Formal Consultation (Representations)**

- (a **Hearing Body**)  
Reviews the situation.  
  
Considers representations from unions and staff on their proposals (either in writing or through meeting(s))  
Decides if they need to go ahead with their proposals.  
Prepares a response to the staff and unions if they reject any counter proposals.
- (b **Chief Executive Officer**)  
Informs staff and trade unions in writing of the Committee's response.  
Meets with staff to answer any questions on the situation.  
Helps staff (if they wish) to produce their written information on the redundancy selection criteria.

#### **Identification**

- (a **Hearing Body**)  
Reviews the situation.  
Meets individually with each member of staff and their representative (if they wish).  
Assesses the written information on each member of staff against the selection criteria.  
Identifies staff proposed for redundancy.



- (b **Chief Executive Officer**)  
Informs staff identified verbally then confirms in writing  
Updates other staff.  
Provides identified member of staff with advice and guidance as appropriate.

6. **Representations on Identification**

- (a **Hearing Body**)  
Hears representations from staff proposed for redundancy with their representative.  
Decides whether or not to go ahead with their proposals.  
If possible informs the individual verbally of their decision.

- (b **Chief Executive Officer**)  
Confirms Committee's decision in writing

7. **Termination**

- (a **Clerk to Trust Board**)  
Informs Trust Board and requests notice be issued with the right of appeal.

- (b **Chief Executive Officer**)  
Maintains management overview and if an alternative appears that might avoid the compulsory redundancy refers the matter to Hearing Body.

8. **Appeals**  
Chief Executive Officer where required prepares case for Appeals Committee  
Any appeal may take place following the issue of notice

- (a **Committee B (Appeals)**)  
- hears appeal from staff with their representative  
- decides if a fair and reasonable procedure has been followed  
- if possible informs the individual verbally of their decision

- (b **Clerk to Trust Board**)  
- confirms Committee's decision in writing

- N.B. Throughout the process the Chief Executive Officer has a responsibility to:-  
[a] Seek all alternatives to avoid compulsory redundancy  
[b] Keep staff and their representatives fully informed

- [c] Ensure that the Hearing Body have correct information and have given proper consideration to the issues before moving on to each step in the process.
- [d] Ensure the Board of Trustees are kept briefed of progress and any major changes/adjustments to the proposals

## APPENDIX 3

### Section 188 letter

LETTER FROM THREE RIVERS LEARNING TRUST TO TRADE UNIONS & STAFF ON NEED TO REDUCE STAFF

TO: TRADE UNIONS & STAFF

Dear

#### **Proposed Reduction in Staffing**

I write to inform you that, at the meeting of the Hearing Body held on \_\_\_\_\_ **(date)** the Hearing Body (reluctantly proposed that a reduction in the staffing establishment of the Learning Trust was required.

Under the provisions of section 188 of the *Trade Union and Labour Relations (Consolidation) Act 1992*, the consultations between the Hearing Body and the union organisations in respect of any reduction of staff, requires the disclosure of the following information:

#### **Reasons for Proposal**

The reason for the proposed reduction is that the Hearing Body believe that the Learning Trust budget for the forthcoming financial year cannot sustain the present complement of staff.

#### **Number and description of staff whom it is proposed to recommend for dismissal**

The Hearing Body has proposed that the reduction in staffing will be effected in the teaching/support staff **(state which)** pool of the staff of the Learning Trust.

The scale of the reduction will be \_\_\_\_\_ **(state how many)** full time equivalent staff.

#### **The total number of staff as described employed at the Learning Trust**

The total number of such staff employed at the Learning Trust is \_\_\_\_\_ **(give number)**.

#### **The proposed method of selection**

The method of selection will be by the application of the following criteria: **list criteria here**

Note

If all criteria are equally weighted, a scoring system to be used should be identified. If it is proposed to give a weighting within each element of criterion, it is necessary to state such weighting. In the event of a tie-break, a weighting given to each criterion should be identified or reference made to some other method of deciding a tie-break.

#### **The proposed method of effecting such dismissals and timescale**

The Hearing Body proposes to meet again on \_\_\_\_\_ **(allow sufficient time for meaningful consultation here)** when the Board of trustee's will consider further

the proposal to reduce the staff of the Learning Trust in the light of observations forthcoming from union representations or the staff of the Learning Trust. If alternative methods other than dismissal can be agreed which effect the required reduction, then they will be pursued. If no alternative is forthcoming, the relevant Committee will apply the criteria to identify a member of staff. The right to make representation and subsequent appeal would be part of the procedure. The procedure, if required to go its full course, will be effected in time to give due notice by **(insert date)**

**The proposed method of calculating the amount of redundancy payments will be:**

If you have any queries concerning the content of this letter or if you would like to meet to discuss the proposed reductions, then please do not hesitate to contact

---

**(contact point in The Learning Trust normally the Chief Executive Officer).**

Yours sincerely,

***Chair of the Trust***

Copy to:    Local Union Representatives  
              Regional Union Representatives  
              trustee of Education (if relevant)  
              Diocese (if relevant)

## **APPENDIX 4**

### **Identification of "Pool" and Criteria**

If a reduction of staff is required through budget reasons, then an assessment of the curriculum needs of the Learning Trust for the following academic year needs to be undertaken. This assessment should inform the Learning Trust about the potential scale of the reduction.

The Hearing Body would then need to identify the pool from which the reductions were to be made. The pool could be:

- All teaching staff; or
- All support staff; or
- Teaching staff in particular curriculum areas or age phases; or
- Support staff in particular roles

Any reduction of staffing needs to be linked to the curriculum assessment. Once the pool has been identified then specific criteria needs to be determined. The criteria must be objective, non discriminatory and transparent

### **Examples of Criteria**

The following are listed as examples. The list is not exhaustible

#### **Qualifications**

If "qualifications" is to be used as a criterion, it should be specific in what is being required e.g. qualification beyond that required for qualified teacher status – examples could include an Advanced Diploma, a Master of Arts Degree, a Special Needs qualification. Consideration should be given to the relevance of a qualification to the Learning Trust's curriculum needs.

#### **Breadth of Teaching Experience**

This could refer to the length of teaching experience beyond one curriculum area or key stage.

#### **Curricular Leadership**

This could refer to experience in leading a department or key stage or cross-curricular area. Such experience does not have to be reflected in the holding of a management allowance.

#### **Management Responsibilities**

This could refer to the holding of key management responsibilities within the ~~school~~ Learning Trust that are reflected in the holding of management allowances. Such responsibilities should be seen as crucial to the needs of the Learning Trust.

### **Application of Criteria**

Consideration needs to be given to the weighting of the criteria that are to be applied e.g. a higher weighting could be given to the criterion deemed most significant to the Learning Trust's curricular needs. For instance, if breadth of experience in teaching is deemed to be the most important, then that might be given a weighting of 3 so that any points allocated in the scoring of the criterion e.g. 2 would be multiplied by 3 to create a score of 6.

### **Information**

Any weighting and scoring system that is to be adopted must be shared with staff and unions from the outset of the procedure.

Any evidence that is to be used to determine qualifications, breadth and length of teaching experience, etc., should be collected in a way which is open and transparent g staff in the pool could be asked to fill in a pro forma of relevant information which would then be used to determine information linked to the criteria.

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**Staff Profile Form – Teacher**

Guidance notes for completion of Staff Profile Form

The purpose of the staff profile form is to give you the opportunity to provide the Hearing Body with up to date details of your skills, knowledge and experience. If you have any queries or concerns over the completion of this form, then please raise these with your Chief Executive Officer.

This information will be used by the Hearing Body to make informed decisions when identifying nominations for redundancy based on the criteria adopted by the Learning Trust. Please provide examples of how you meet these criteria in relation to your job at the Learning Trust. Please attach further sheets if you wish.

Please use additional sheets if you require more space for your response.

<b>Academy:</b>
-----------------

<b>Name:</b>
--------------

<b>Reference number:</b>
--------------------------

**I confirm that the information included in this form is accurate.**

**Signed (teacher’s name).....**

**Date.....**

This sheet will be removed before the forms are copied for the Hearing Body.

Please ensure that you put the reference number above on the top of each sheet of your form.

**Reference number:**

**Present Post:**

**Current Job:**

**Year group(s) taught and (where relevant) subjects taught:**

**Other areas of job responsibility:**

- 1. Professional Standards for the job** *(e.g. as described by the DCSF/TDA/ Professional qualifying bodies)*
  
- 2. Commitment to raising standards of education** – *(e.g. contributing to making the school one to which parents want to send their children and children want to attend; contribution to the well-being of children; demonstrating high expectations, etc.).*



<b>Reference number:</b>
--------------------------

- 3. Contributing to the good standing of the Learning Trust in the community**  
*(e.g. gaining the respect and confidence of parents and trustees; etc.).*
  
- 4. Communication Skills** *(e.g. demonstrated good relationships with others; effective written reports; etc.)*
  
- 5. Flexibility and adaptability** *(e.g. ability to contribute effectively to the development and implementation of new methods of working; etc.)*
  
- 6. Skills and Competencies** *(e.g. specific expertise that supports the Learning Trust's future development)*

**Reference number:**

- 7. Keeping self professionally up to date** (*e.g. steps taken to ensure an up to date knowledge of current education issues to enable an effective contribution to the Learning Trust*)

**Staff Profile Form – Associate Staff**

Guidance notes for completion of Staff Profile Form

The purpose of the staff profile form is to give you the opportunity to provide the Hearing Body with up to date details of your skills, knowledge and experience. If you have any queries or concerns over the completion of this form, then please raise these with Chief Executive Officer.

This information will be used by the Hearing Body to make informed decisions when identifying nominations for redundancy based on the criteria adopted by the Hearing Body. Please provide examples of how you meet these criteria in relation to your job at the Learning Trust. Please attach further sheets if you wish.

Please use additional sheets if you require more space for your response.

**Academy:**

**Name:**

**Reference number:**

**I confirm that the information included in this form is accurate.**

**Signed .....**

**Date.....**

This sheet will be removed before the forms are copied for the Hearing Body.

Please ensure that you put the reference number above on the top of each sheet of your form.

**Current Job Title:**

**Please detail your current job responsibilities:**

- 1. Professional standards for the job** *(please give examples of how you demonstrate your Professional abilities in your job)*
- 2. Commitment to raising standards of education** – *(Please give examples of how you contribute to making the Learning Trust one to which parents want to send their children and children want to attend and how you contribute to the well-being of children).*
- 3. Contributing to the good standing of the Learning Trust in the community** *(Please give examples of how you gain the respect and confidence of parents and trustees; etc.).*

**4. Communication Skills** *(Please give examples of how you demonstrate good relationships with others; colleagues, children, parents, trustees; appropriate to your job)*

**5. Flexibility and adaptability** *(Please detail examples of your ability to contribute effectively to the development and implementation of new methods of working; etc.)*

**6. Skills and Competencies** *(Please detail your specific expertise that supports the Academy's future development)*

**8. Keeping self professionally up to date** *(Please detail steps taken to ensure an effective personal contribution to the Academy)*

## **APPENDIX 7**

### **Example Process for the Appeals Procedure**

1. The Learning Trust's representative (normally the Chief Executive Officer) will put the case in the presence of the appellant and their representative and may call witnesses.
2. The appellant (or their representative) will have the opportunity to ask questions of the Learning Trust's representative on the information given by them and any witnesses whom they may call.
3. The members of the Appeals Committee and the HR adviser will have the opportunity to ask questions of the Learning Trust's representative and witnesses.

### **Statement of Case by The Appellant**

4. The appellant (or their representative) will put his/her case in the presence of the Learning Trust's representative and may call such witnesses as they wish.
5. The Learning Trust's representative will have the opportunity to ask questions of the appellant and their witnesses.
6. The Committee and HR adviser will have the opportunity to ask questions of the appellant and their witnesses.

### **Summing up**

7. The Learning Trust's representative and the appellant (or their representative) will have the opportunity to sum up their cases if they so wish.

### **Parties to Withdraw**

8. The Learning Trust's representative and the appellant and their representative and witnesses to withdraw.

### **Consideration by Committee**

9. The committee will deliberate in private, only recalling the Learning Trust's representative or the appellant to clear points of uncertainty on evidence already given. If recall is necessary both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.
10. The Learning Trust's HR adviser will be present at the hearing to advise on HR and employment issues.