

SUBJECT:	The Funding of Schools' Redundancies (Supplementing Administrative Procedure D-24)
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1.0 To whom does the SOP apply?

- 1.1 This SOP applies to all community, voluntary controlled, voluntary aided and foundation schools and will be effective from *XXXXXXX. (to be agreed once decision sheet signed)*
- 1.2 It applies to all schools based staff although it must be recognised that Headteachers/Deputies cannot be made redundant, due to the statutory nature of their role, unless for reasons of school closure/reorganisation.

2.0 Consultation

- 2.1 The SOP has been agreed following consultation with Trade Unions and Professional Associations, through the Directorate Joint Consultative Committee Sub Group for Education and Schools' Forum.*

3.0 Purpose

- 3.1 It is mainly concerned with the **process for determining how a redundancy will be funded** and to provide information necessary to enable the Director of Children's Services to enact a termination of employment due to redundancy.
- 3.2 Redundancy costs, both initial and ongoing can be significant. Reference to premature retirement in the context of this SOP relates to the automatic pension access that is given (this may be at age 50 or 55) when making a redundancy. The Council has a legal obligation to avoid redundancies wherever possible and redundancy will only be considered as a very last resort or in exceptional circumstances.
- 3.3 Schools will be expected to evidence that all possible alternative avenues have been exhausted. This evidence will be scrutinised throughout the process at a number of levels with the final decision resting with the Director of Children's Services.
- 3.4 Readers should be aware that this SOP does not cover the **process** for redundancy under which there are a number of statutory requirements which must be followed by the governing body in question. These requirements are detailed in Administrative Procedure D-24.

4.0 Funding

4.1 The funding for school redundancies/premature retirements will be dependant upon the nature of the application:

4.1.1 If the redundancy/premature retirement identifies recurrent revenue savings in a schools delegated budget equal to or greater than the cost, as may be likely in the case with enforced or imposed change, then the related costs can be charged to the Schools Budget, funded by the the DSG. This would be by a permanent top slice from the ISB (Individual Schools Budget) and charged to the account ' Termination of Employment Costs'.

4.1.2 The School Finance (England) Regulations 2008 permit that where redundancy or premature retirement costs are incurred in securing the resignation of any person employed in a maintained school after April 2006 and the revenue savings that will be achieved will be equal to or greater than the costs incurred then the Termination of Employment Costs budget, line 1.5.10 of Section 52 budget statement, will relate; this includes immediate dismissal costs together with any ongoing costs associated with the redundancy/premature retirement.

4.1.3 Schools Forum must agree to the Local Authority retaining funding for redundancy/premature retirement costs within the Schools Budget and also agree to the amount held.

4.1.4 If the redundancy/premature retirement does not identify recurrent revenue savings in a schools delegated budget equal to or greater than the cost, then the related costs must be funded from the Local Authority budget.

4.1.5 The Director of Children's Services is responsible for making decisions in respect of the Local Authority budget. The Local Authority budget sits outside of the DSG arrangements.

5.0 Timing

5.1 An illustration is set out in Procedure D24 as to the process from the identification of a potential redundancy to the last day of employment. This can be up to 12 months. Please take this into consideration when contemplating redundancies.

6.0 The Role of the Personnel Officer

6.1 The Personnel Officer plays a key role within the process and attention is drawn to the detail of this as set out in 10.2.3 below.

7.0 Types of Redundancy

7.1 It must be noted that in the event of a redundancy, then any available resources must be used to stabilise the budget even if in the short term. In addition, prudent financial management must be demonstrated if an application for voluntary redundancy is to be supported.

7.2 Generally, the reasons for redundancy can be split into categories as follows:

7.2.1 Enforced or Imposed Change

a) School Closure

As this scenario will lead to an overall saving to the Dedicated Schools Grant (DSG), redundancies in the case of school closure will be funded from the schools' element of the DSG.

b) Cessation of or reduction in Temporary Funding Streams

Although this may be an imposed change, the life expectancy of funding is often known at the outset of a project, when the funding is awarded. Therefore, spending plans should take account of and be supplemented with staffing plans which indicate the cost of and the proposed arrangements for staffing in the event of funding cessation or reduction.

In these circumstances, only where the Director is satisfied that all appropriate action has been taken to avoid a redundancy situation, will any costs arising be funded by the Local Authority budget allocated to Children's Services.

7.2.2 School Decision

- a) A management or governing body decision to restructure the schools' staffing which results in a redundancy situation is unlikely to be successful if an application is made to the Directorate for funding. In these circumstances, the Individual School Budget (ISB) will be charged.
- b) Having used all available resources, where a school is unable to balance its delegated budget due to a current falling rolls scenario and the trend is projected to continue, then the Director would look favourably upon the application for support for voluntary redundancy. In this case the costs would be chargeable to the Local Authority budget allocated to the Directorate of Children's services, which is outside of the DSG.

In reaching a decision to fund redundancies, the Director of Children's Services will consider the criteria below.

8.0 **Criteria for consideration**

8.1 In reaching a view about whether the Directorate should fund a school redundancy, the following factors are likely to be considered along with any other relevant information that comes to light during the process:

It should be noted that where a potential redundancy situation exists, it is more often the case that this will be a whole team/department/faculty or whole school issue and it may prove to be unlawful if an individual is identified from the outset.

- a) Is the redundancy lawful?
- b) What action has been taken by the school to avoid the redundancy, including:
 - i) Turnover – could the redundancy have been reasonably foreseen when recent appointments were made to vacancies or could savings have been made through natural wastage?
 - ii) Health – Are you actively managing any issues of long/short term sickness absence in school which might impact upon the redundancy proposal?
 - iii) Capability - Are you actively managing any issues of capability in school which might impact upon the redundancy proposal?
 - iv) Disciplinary – Are you actively managing any issues of discipline in school which might impact upon the redundancy proposal?
- c) Has financial management in previous years been prudent ?
- d) Have all available resources been used to stabilise staffing?
- e) What is the profile of spend and useage on supply staff – could the supply budget be used to stabilise staffing?
- f) What banding is allocated to the school by Schools' Performance Group - what is the urgency of the changes that are needed? The EIA will be asked to comment on this area, where they are able to do so.
- g) Has the school followed any advice given by the Directorate of Children's Services?
- h) Has the school assisted/can the school assist in the redeployment of a member of displaced staff from across the Directorate/Council?

8.2 The overriding consideration is whether the necessary staffing changes can be achieved through an alternative and more appropriate route before considering redundancy.

9.0 Overview of Administrative Procedure D-24

9.1 It should be noted that the process for redundancies is set out in Administrative Procedure D-24 to which schools must adhere. However, the following gives a brief overview.

9.2 When a redundancy situation is anticipated, for example, in a particular area, subject to discussions with the Personnel Officer and subsequent scrutiny, then a section 188 notice will be issued to unions. This is usually copied to all affected staff either within the school, or team, or to an individual where the process allows such specificity.

9.3 This commences the consultation process. Consideration is then given to alternative ways to achieve staffing changes. For example, it may be that someone who is close to retirement will agree to retire earlier than anticipated, that someone has an interview and intends/hopes to leave, or that a reduction in staffing may be achieved through invoking a more appropriate procedure, i.e. ill health or capability dismissal.

9.4 If this is not the case then all of those identified as being at risk will be subject to the Redeployment Policy for a period of three months. Only where these avenues are unsuccessful and there is a likelihood that compulsory redundancy will be necessary, may the school ask for volunteers from the group identified as being "at risk". Where there are no volunteers, then a compulsory redundancy may be necessary.

- 9.5 If staff are invited to volunteer, it will be necessary to have pre-agreed criteria for use in determining which applications for voluntary redundancy will be successful and criteria that would be applied in the event that compulsory redundancy is necessary. Your Personnel Officer can advise on this.
- 9.6 As this process will span a period of some months, natural changes may occur elsewhere in school during the process that allow a fresh approach to be taken. Schools will be expected to give serious consideration to any such changes before pursuing redundancies.

10.0 Process

- 10.1 Once a potential redundancy situation has been identified, a cross divisional meeting must take place between:

- a) The Headteacher;
- b) A representative from Governing Body, where appropriate;
- c) The Assistant Director for the EYYES, or a nominated representative;
- d) Children's Services Finance;
- e) Children's Services Personnel.

- 10.2 The role of each party is as follows:

10.2.1 The Headteacher and the representative from the Governing Body (where appropriate) will report on the current staffing structure within the school and the budgetary situation which has identified the need for potential redundancies. He/she will demonstrate how the school has arrived at the decision to consider redundancies, what alternatives to redundancy, if any, have been considered and why these are not achievable. He/she will also put forward suggestions to minimise either the number or effect of redundancies e.g. redeployment within school. Redeployment across all Dudley Schools must also be considered and will be facilitated through Children's Services Personnel.

The information should be recorded in Box A of Form AFR (Appendix 1 to the SOP).

10.2.2 The Assistant Director for EYYES (or nominated representative) will report on the effect that the proposed redundancy will have upon the teaching of the curriculum and the education of the children in school. They will ratify, or otherwise, the educational arguments put forward by the School.

The information should be recorded in Box B of Form AFR (Appendix 1 to the SOP).

10.2.3 Children's Services Finance will comment upon the quality of financial management within the school and why the school is in the current position.

This representative will also validate the shortfall in funding and identify where possible, alternative funding or financial solutions which may be used to avoid the need for redundancies. This exercise will draw upon the multi-year budget forecast.

It should be noted that the professional Adviser has an obligation to report the facts of the case, including those which may not facilitate the application for funding.

The information should be recorded in Box C of Form AFR (Appendix 1 to the SOP).

10.2.4 Children's Services Personnel

Where schools purchase a service from Children's Services Personnel, assistance may be given in building a case to obtain Directorate funding for redundancies. In this role, the Personnel Officer will offer advice on the criteria set out above and advise on what factors will be considered and scrutinised by the decision maker. They will also enquire into the facts presented to them e.g. number of recent appointments. They will, where possible, suggest alternative ways in which potential redundancies can be avoided, which may not have been previously considered. They will also offer advice on the outcome of any enquiries carried out and offer an opinion on the likely outcome of the application, based on the facts available.

It should be noted that the professional Adviser has an obligation to report the facts of the case, including those which may not facilitate the application for funding and they must be satisfied that there is a genuine redundancy situation in accordance with the legal definition.

This information should be recorded in Box D of Form AFR (Appendix 1 to the SOP).

- 10.3 A copy of the completed proforma will be provided to the Headteacher and the recommendations will be discussed with the school.
- 10.4 If, after considering any recommendations, the Headteacher and/or Governor believe that a redundancy situation cannot be avoided and that the circumstances should attract Directorate funding, then Form AFR should be submitted to the Children's Services Personnel Officer.
- 10.5 The Children's Services Personnel Officer will provide to the Director of Children's Services and his advisers, a copy of the completed Form AFR. This will include any recommendations as to whether the submissions meet the criteria for obtaining funding.
- 10.6 The Director may wish to convene a meeting with the representatives of the school and professional advisers.
- 10.7 If the Director of Children's Services:

- a) agrees that a redundancy situation cannot be avoided; and
- b) approves the application for funding,

then the group, advised by the Children's Services Personnel Officer, will agree an action plan to include the issue of Section 188 notices, consultation, redeployment and the mechanism for progressing the redundancies.

10.8 It should be noted by schools that where the Director of Children's Services:

- a) is not satisfied that the school has followed due process as advised by the Directorate;
- b) is not satisfied that redundancies are necessary; and/or
- c) is not satisfied that the circumstances of the redundancy meet the criteria set out in 8.0 above;

then it will **not** meet the costs of any redundancies or legal claims arising from the same.

11.0 A report will be provided to the Schools' Forum on an annual basis detailing the use of the budget.

Please comment upon the effect that the proposed redundancy will have upon the teaching of the curriculum and the education of the children in school.
Please then ratify, or otherwise, the educational arguments put forward by the School.

Recommendation: *(i.e. is the request supported?)*

Please note that Boxes A, C and D must also be completed by the relevant parties

Signed Name (Printed)
Assistant Director for EYYES (or nominated representative)

Dated

BOX C – For completion by the Children’s Services Finance representative:

Please confirm the funding circumstances (including actual figures) that have lead to these redundancies. Please also comment on any alternative financial management regime which could have reasonably been adopted by the school and that would have avoided the need for redundancies.

Recommendation: *(i.e. is the request supported?)*

Please note that Box A, B and D must also be completed by the relevant parties

Signed Name (Printed)
Children’s Services Finance Representative

Dated

BOX D – For completion by the Children’s Services Personnel representative:

Please confirm that the proposed action meets the legal definitions for redundancies. Please also confirm that:

- Consultation has been carried out in accordance with legal requirements;
- Consultation feedback has been given serious consideration;
- Redeployment has been attempted/considered;
- Where possible, voluntary redundancy has been offered prior to considering compulsory redundancy; and
- Any other action that has been taken in order to avoid the proposed redundancies.

Recommendation: *(i.e. is the request supported?)*

Boxes A, B and C must also be completed by the relevant parties

Signed Name (Printed)
Children’s Services Personnel Representative

Dated