

# **Schools Redundancy & Redeployment Policy & Procedure**

**Approved by: Governing Body of**

(Name of School)

**Effective from:**

(Date approved)

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## **1. Principles and Scope**

- 1.1 This procedure applies to all schools-based employees of the London Borough of Lambeth and is also recommended for adoption by Governors of voluntary aided and foundation schools.
- 1.2 The Governing Body is committed both to providing education of the highest quality for all their pupils and to exercising their responsibilities for managing employees in a positive and supportive way. These commitments require the Governing Body to ensure that appropriate mechanisms are in place to deal fairly and consistently in deciding the size and most efficient use of the school workforce.
- 1.3 The Governing Body shall endeavour to take every reasonable step to maintain the job security of staff employed. In the event that any proposed change for an operational, budgetary or another significant reason is communicated to a Governing Body which may result in the possibility of a reduction of the staffing establishment or the need for an organisational review, which may result in a decrease in staff then every effort will be made to avoid compulsory redundancy through alternatives, where they are available, appropriate and practical.

## **2. Preamble**

- 2.1 The overriding objective of this policy is to minimise the number of redundancies and to maximise redeployment.
- 2.2 The Council/Governing Body recognise their obligations to minimise the necessity for redundancy and to retain employees with the requisite skills and knowledge. Whilst it is the intention of the Council to seek to provide security of employment for its staff it recognises that there will be occasions when this is not possible. This procedure applies in those circumstances where there is a need either to reduce staff numbers or where there is organisational change. This means that a particular type of work may no longer be required, it may be required to be done differently or it may be required to be done at a different location. Situations that may result in the need for redundancies include, but are not limited to; school closure/amalgamation, falling rolls, closure of facilities, budgetary problems or change in the demands for certain subject areas or job requirements.
- 2.3 The timescale for achieving staffing reviews can take up to six months therefore it may be necessary to hold meetings during periods of school closure outside of the normal working days. If staff and members of the governing body agree to attend meetings during this time, then staff will be appropriately reimbursed and every effort shall be made to ensure that working parents, part-time staff and staff with disabilities are not adversely affected.

## **3. Legal Requirements**

- 3.1 Under the Education Reform Act 1988 the Governing Body is responsible for deciding upon the staffing structure of the school. There will be occasions when staff become surplus to requirements. Under paragraph 11 of schedule 14 of the Education Reform Act 1988, it is the Governing Body that will

determine when employees shall cease to work at the School. This may for example result from changes in statutory requirements, changes in the organisation of curriculum, significant changes in the total number of pupils on roll, variations in budgets and the continuing need to make the most effective and efficient use of resources.

- 3.2 By virtue of paragraph 11 of schedule 14 of the 1996 Education Act, the Local Authority may nominate for consideration by a Governing Body, teachers and other staff who appear to be qualified, to fill a post. This power is to enable schools in conjunction with the Council, to use their best endeavours to assist members of staff who have been deemed surplus to requirements, to find suitable alternative employment in another school. This will enable the LA, and Voluntary Aided Governing Bodies who are the employers of staff in their schools, to discharge their responsibilities under the legislation and protect the interests of individual staff.
- 3.3 In community schools the LA remains the employer and has a duty to seek all reasonable means of avoiding redundancies amongst its staff. In voluntary aided and Foundation Schools the Governing Body is the employer.
- 3.4 The revision of these procedures reflects the implications for voluntary and foundation schools of the School Staffing (England) Regulations 2003.

## **4. Governors Responsibility**

- 4.1 Once the staffing needs of the school have been established they should be reported, in general terms to the Governing Body. **If it is anticipated that there may be a need to identify surplus staff there must be no discussion by the full governing body of the matter.** This is to ensure that there are sufficient Governors not involved in the original decision to hear an appeal. Failure to ensure this division of responsibilities may render the decision-making process unlawful because it will deny the right of an unprejudiced appeal.
- 4.2 As part of this process the Governing Body will need to have established a Staffing Sub-Committee of 3 governors to carry out the identification of staff and an Appeals Sub-Committee of 3 governors not involved in the original decision.
- 4.3 The Headteacher should not be a member of either committee but would be called upon to advise; assist with the provision of information to unions and professional associations; in the event of compulsory redundancy - make recommendations relating to the criteria to be used; present management's case to the hearing by members of the Staffing Sub Committee; accompany the Chair of the Staffing Sub Committee to any appeal hearing. Teachers and non-teaching staff who are governors may be a member of either of these committees unless it is clear that there is a pecuniary or other conflict of interest.
- 4.4 Governing Bodies will need to consult the LA at all stages of the process for advice on employment legislation and other aspects of the procedures if they are to avoid cases of unfair dismissal.
- 4.5 Prior to nominating any staff for redundancy, it is recommended that Governors should seek to achieve reductions in staffing in a number of ways:-

- natural wastage
  - voluntary reduction in hours
  - redeployment to another post
  - voluntary early retirement/voluntary severance
  - secondment
  - terminating contracts of temporary staff
  - other lawful criteria
- 4.6 It must be noted that Governing Bodies should also undertake consultation even where it is anticipated that only temporary contracts are being terminated.
- 4.7 In order to avoid redundancy, the Governing Body will review the use of agency staff and consultants with a view to reducing or eliminating their use.
- 4.8 The Governing Body must give the LA a minimum of six weeks' notice of any impending redundancy.

## **5. The Consultation Process**

The purpose of consultation is to provide staff, employee representatives, Trade Unions and Professional Associations with sufficient information about the employer's proposals to take a useful and constructive part in the process of consultation. Consultation is to include ways of avoiding redundancy situations or dismissals or reducing the number of dismissals involved and mitigating the effects of the dismissals. Legislation does not require agreement to be reached but consultation must be meaningful with a view to reaching agreement.

### **Individual Consultation**

- 5.1 Employees need to be warned that there is a possibility that they may be made redundant. The timing of individual consultation will depend on the circumstances but it should begin at an early stage, generally when redundancies are at the proposal stage. This is because the purpose of consultation is to warn the employee and provide the employee with an opportunity to discuss the proposals with his or her employer and trade union/professional association representatives and to make suggestions as to how the redundancy can be avoided.
- 5.2 The following points should be remembered when conducting individual consultation on potential redundancies:
- Be understanding and sympathetic towards staff and their concerns regarding their situation.
  - Follow up any meeting with individual letters to staff. Keep letters as simple and clear as possible to avoid any confusion.
  - Ensure that someone is available to meet with staff to discuss their individual concerns and inform staff who they should contact.
  - Advise staff of their right to seek Trade Union advice and representation.
  - When meeting with individual members of staff, make sure that you meet with staff privately, redirect your phone calls, and allocate sufficient time for the meeting. Be prepared to deal with questions.
  - Keep all staff informed throughout the consultation process (including staff absent from work e.g. because of sickness or maternity leave.)

- Consultation with individuals must continue throughout the process including staff absent from work e.g. because of sickness or maternity leave.

### **Collective consultation with staff**

- 5.3 In addition to individual consultation and union/employee representative consultation, Governing Bodies may initially wish to consult with affected staff collectively. If calling a meeting of a whole workgroup, explain clearly what the situation is and what the proposals are. Explain why and how the reductions will be made.
- 5.4 The Headteacher may wish to notify all school staff of the content of the proposal and write to all affected staff. This letter should be copied to professional association and trade union representatives, formally inviting them to comment upon any alternative proposals.

## **6. Collective consultation with Unions**

- 6.1 The requirements for consultation with recognised Trade Unions or Employee Representatives are set out in ss.188-189 of Trade Union and Labour Relations (Consolidation) Act 1992 ("TULRCA"). The provisions apply where the Council/School is proposing to make 20 or more employees redundant at one establishment over a period of 90 days or less. It is advisable that the Headteacher meet at least these requirements regardless of the number of redundancies proposed. No matter how many redundancies are expected, Headteachers are advised to meet these requirements in order to reflect best practice.
- 6.2 These requirements for consultation cover a wider definition of redundancy and extend to all situations where reorganisations may result in redundancies or where significant changes are proposed to employee's terms and conditions of employment.
- 6.3 The main points to note regarding the legal requirements for adequate collective consultation with Trade Unions/Employee Representatives are:
  - Where it is proposed that more than 20 employees are to be made redundant, the Staffing Sub Committee or appropriate representative of the School is obliged to inform and consult with its recognised Trade Unions in advance of the redundancies and warn the Department of Trade and Industry by way of Form HR1. It is the Staffing Sub Committee's responsibility to complete the HR1 and to forward it to the DTI.
  - Consultation must be conducted in good time and with a view to reaching agreement. It is intended to be for the purpose of avoiding redundancies, reducing the number of redundancies and mitigating the impact of redundancies, wherever possible. As with individual consultation, collective consultation, should begin when proposals are still in the formative stage and the Staffing Sub-Committee should ensure that the process is meaningful. Trade Unions/Professional Associations should be given a period of at least one week in which to respond to the initial proposals put to them, either in writing or at a meeting arranged for the purpose of hearing and discussing any responses as part of the initial consultation process. Any response to

the proposals should be fully considered and it is good practice to respond in writing to any response received, including following any consultation meeting, giving comments on any counter-proposals received.

- Where the Staffing Sub-Committee is proposing to dismiss 100 or more employees the consultation should begin at least 45 days before the first dismissal is to take effect and in other cases it should begin at least 30 days before the first dismissal is due to take effect. The Staffing Sub-Committee should commence consultation as early as practicable in advance of these deadlines.
- Consultation must also take place when terminating the employment of employees with temporary or fixed term contracts on the grounds of redundancy even if the purpose of this is to reduce the number of redundancies of permanent staff.

6.4 In order to comply with s.188 TULRCA it is necessary for the Governing Body to disclose in writing to the recognised Trade Unions the information set out below. This must be sent by post to the Local Secretaries of the appropriate Trade Unions and Professional Associations and copied to Regional Officers.

- The reasons for the proposed reduction in staffing posts.
- The numbers and descriptions of employees whom it is intended to dismiss as redundant.
- The total number of employees of any such description employed at the workplace in question.
- The proposed method of selecting the employees who may be dismissed and criteria to be used (refer to paragraph 10).
- The proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect.
- The proposed method of calculating the amount of any redundancy payments to be made (if different from the statutory redundancy payment).

6.5 The following documentation may also be enclosed with the letter:

- Budget plan for the current and next financial year including staff costings and outturn statements, where appropriate.
- School Development Plan
- Staffing analysis

6.6 Where collective consultation does not take place, or is inadequately carried out, a complaint can be made by the Union concerned to the Employment Tribunal. If the Tribunal considers the complaint to be well founded it can make a declaration to that effect and may also make a protective award to each affected employee. The purpose of the award is to compensate the employee for the failure to consult.

6.7 Individuals/trade unions/professional associations should also be provided with the following information as part of the initial consultation process:

- Rationale
- Proposed criteria for selection;
- Timescales/timetable
- Processes
- Job Descriptions
- Structure Chart



## **7. The process for identifying staff as Redundant**

- 7.1 The steps required in identifying staff as surplus to requirement are as follows:-
- 7.2 Once the Staffing Sub Committee has been established, formal consultations must be started with Trade Unions and/or Professional Associations and affected staff should be consulted individually (refer to paragraphs 5 & 6).
- 7.3 When the Staffing Sub-Committee discusses proposed reorganisation/reductions in staff with individuals and representatives, they should identify posts not individual names.
- 7.4 The Staffing Sub Committee will need to respond in writing to any written representations made by the representatives before proceeding to preliminary identification of staff, so the proposed timeframe must allow for this. A trawl for volunteers can also be carried out at this stage. Estimates for entitlements under the early retirement/voluntary severance scheme can be obtained by contacting Lambeth Children & Young People's Services Schools Human Resources section.
- 7.5 Following consultation with the representatives, the Staffing Sub-Committee and the Headteacher may still feel that staffing adjustments are necessary. If this is the case they will need to carry out a preliminary identification process. This process must follow the criteria and procedures identified and discussed with the representatives during formal consultation.
- 7.6 The staff members should be informed of the preliminary decisions (i.e. the post(s) are reduced/deleted which would result in dismissal by reason of redundancy) and given the reasons for this decision. This should be confirmed in writing for the individual(s) so that they may seek advice and support from their representatives.
- 7.7 The members of the Staffing Sub Committee making these decisions will need to meet with individuals and their trade union representatives to hear their oral representations. This is a formal meeting. (refer to paragraph 8)
- 7.8 If after the individual representations the Staffing Sub Committee decides to make the reductions as planned the individuals must be informed in writing of the formal identification. (refer to paragraph 9)

## **8. Oral Representation**

- 8.1 At this stage identified individuals have the right to make an oral representation to the Staffing Sub-Committee who made the initial decision. This should be a formal hearing following the procedure as for appeals. The member of staff should be given at least 5 working day's notice of the date of the hearing so that they can consult with their trade union/professional association and prepare adequately.
- 8.2 The decision of the Staffing Sub-Committee should be conveyed to the individuals in writing.

- 8.3 A Human Resources Officer will attend the meeting to advise the governors if this is requested. If the Staffing Sub-Committee decides to pursue staff reductions formal identification of selection for redundancy should be in writing.

## **9. Formal identification of staff as surplus to the needs of the School**

- 9.1 Following the oral representations to the Staffing Sub-Committee it may still be necessary to reduce or delete the post(s). The identification of the individuals selected for redundancy will then become formal. They must be notified in writing of the fact that they have been formally identified, and provided with the reason for identification for selection for redundancy.
- 9.2 A primary consideration throughout the identification process is to ensure that the procedures are operated in a fair, justifiable and equitable manner. It is essential to record the reason for the decision on individual identification. .
- 9.3 Following the initial dismissal determination, notification of the decision (including the name of any staff identified as surplus to the need of the school) and the reasons for the dismissal must be sent in writing to the Executive Director of Children & Young People's Service or his/her representative. If the LA employs the member of staff, it must within a period of 14 days, issue notification of termination of the employment contract. (refer to paragraph 14).
- 9.4 Individuals then have the right to appeal to the Appeal Committee of the Governing Body. They must be given 5 working days from receipt of the letter to register an appeal against formal identification. The appeal should be addressed to the governors. (refer to paragraph 17)

## **10. How to select for redundancy**

### **Initial Considerations**

- 10.1 Once a redundancy situation has arisen, it is necessary to decide who shall be selected for redundancy. In some cases, e.g. where all posts are deleted within a work group, it is obvious who will be potentially redundant and no further selection process may need to take place. If new posts are being created in a new structure the consideration then is how to select and recruit to the new posts within the new structure ( to paragraph 12).
- 10.2 Three things are crucial in any selection process:
- The selection criteria must be developed in consultation with the Trade Unions. Consultation in this context means giving staff and Trade Unions a fair and proper opportunity to understand fully the proposals on which they are being consulted and to express their views on the subject and thereafter giving proper and genuine consideration to those views. This consideration shall be undertaken with a view to reaching agreement.
  - Reasonable selection criteria must be decided on, which can be objectively checked, i.e. the criteria does not depend solely on the opinion of the person making the selection.
  - Once decided upon, the selection criteria must be applied fairly and objectively in respect of each affected employee.

- 10.3 Where all posts within a work group have been deleted, and new posts created, the Staffing Sub-Committee should consider the following:
- Are there any posts within the new structure that are broadly similar to the posts within the old structure, into which potentially redundant employees can be assimilated.
  - If there are broadly similar posts, can staff be directly assimilated, or are there more potentially redundant employees than posts. If the latter is the case, what process should be followed to recruit to those posts within a ring fence process.
  - Are the new posts at a higher/lower grade than previous posts and if so, who can be considered for them.
  - If employees are not assimilated directly into posts, will they be invited to apply for any of the posts within the new structure, or will they be invited to apply for posts within a certain grading band.
- 10.4 It is necessary to carry out an assimilation process at the earliest possible opportunity in order to be able to identify the posts available as alternative employment for potentially redundant employees. An examination of the new posts therefore needs to be carried out at an early stage. The Staffing Sub Committee or as appropriate, a panel of at least two Governors/HR officers should carry out an assimilation/job matching exercise. Having completed the assimilation process, it is important to record how the process was conducted and the results of the exercise. The Staffing Sub-Committee should ensure that these records are kept safely in case they need to be referred to at subsequent appeal/tribunal hearings.
- 10.5 If, having completed the assimilation process, there are more employees who can be assimilated than there are posts, then a ring-fenced selection process will need to be followed. This should be in line with the Council's general recruitment and selection processes. However it is important to note that any selection process in these circumstances should result in recruitment to all available posts. An Employment Tribunal is unlikely to consider that it was fair to make someone redundant following a ring-fenced process but to leave vacant posts to be filled elsewhere, since the posts will be deemed as suitable alternative employment.
- 10.6 Assimilation or recruitment to new posts in the structure should take place prior to oral representations. Once there has been a reduction of the number of potential redundancies, the remaining staff who are at risk of redundancy are invited to make oral representations. The decisions of the assimilation/recruitment process cannot therefore be confirmed until after the outcome of the oral representation hearing.
- 10.7 Employees who are not assimilated or who are not successful in a ring fence process will become redundant and must be notified accordingly. If there are other posts within the new structure they should be invited to complete a redeployment pro-forma, and to state which of these posts within the new structure they wish to apply for. A copy of the completed pro-forma should be sent to Schools Human Resources for the purposes of seeking suitable alternative employment across the Council.
- 10.8 Assimilation occurs where the main purpose and duties of a post remains substantially unaltered and/or where the current duties form a major part of the duties of the new post.

- Staff will be assimilated to new posts in the structure, where their existing post is 'broadly similar' to the new post, based on existing and new job descriptions. The assessment of 'broadly similar' is a managerial one, taken in the round, and not based on crude percentages, or numbers of similar items in the Job Descriptions. Where an existing job description is clearly out-of-date, this can be updated with the agreement of the Headteacher/supervisor.
- Assimilations will only apply in general to posts at the same grade or one grade lower or higher than the substantive grade. A post on a lower grade may not constitute suitable alternative offer.
- In the first instance all assimilations should be based upon substantive posts and grades and not on acting, fixed term/temporary, interim or seconded positions regardless of the length of such temporary arrangements.
- Where an individual's substantive post has been deleted and they have been acting up for over six months, the Staffing - Sub Committee must seek HR Advice as to whether or not the employee shall be offered the position in which they are acting.
- In cases where the acting (secondment) interim post has been deleted but the substantive post still exists then the employee should return to their substantive post.

### **Deciding upon the pool of selection for redundancy**

- 10.9 The first step will be to ensure that employees to be made redundant are chosen from the correct group of employees. In cases where this is not the immediate work group it would be appropriate to look at a wider workgroup, e.g. where the nature of a generic job description makes it reasonable to do so. Generic means the same job description, same grade or similar grading structure and they are managerially interchangeable.
- 10.10 It is important before selecting staff for redundancy, to ensure that there is not work available elsewhere that is covered under their existing job description, since this may result in there not being a redundancy situation at all.
- 10.11 It is for the Staffing Sub Committee to determine the correct pool from which selection for redundancy will be made bearing in mind the consultation requirements outlined in paragraph 5 above. Having decided upon the pool it is all these staff that need to be warned and consulted. The staff members should be informed of the preliminary decisions and given the reasons for the proposal to reduce or delete the post(s). This should be confirmed in writing for the individual(s) so that they may seek advice and support from their representatives.

### **Deciding upon selection criteria**

Where early retirement or voluntary redundancy has not produced suitable volunteers, employers, in consultation with employee representatives should consider the criteria to be used. It is important to look at the individual circumstances and to choose criteria, which are the most appropriate. In advance of commencing formal consultations, the Staffing Sub-Committee in

consultation with the Headteacher and with advice from the LA, will need to draw up criteria for identifying surplus staff. In selecting staff for redundancy, the Staffing Sub Committee will need to determine the criteria they intend using and to have consulted the trades unions. In applying the criteria the Staffing Sub Committee must be consistent and act in a non-discriminatory fashion. (refer to paragraph16)

Examples of selection criteria to be used are as follows: -

- Skills, qualifications and experience
- Curricular, pastoral and managerial needs of the school
- Standard of work performance or aptitude for work
- Length of service - last in first out, [LIFO]

10.12 Where utilising documentary evidence – e.g. discipline/attendance the Staffing Sub-Committee will need to be satisfied that the evidence upon which their decisions are made cover a reasonable period and can be applied consistently to each person affected.

10.13 Where using criteria related to skills and knowledge and experience, it would be reasonable for managers to utilise work related competency testing and or other measures of skills and knowledge such as interviews to determine selection.

10.14 Where a number of staff equally fulfil these criteria it may then be necessary to take into account the following:

Attendance record	)	These criteria are not easy
Performance	)	to apply and must be fairly
Examination results	)	and objectively assessed.
Live records under the disciplinary and/or capability procedures.	)	

Where using criteria related to skills and knowledge or expertise, it would be reasonable to use interviews, lesson observations, literacy or numeracy testing to determine selection.

10.15 The proposed method of selection should be discussed with the trade union(s), as part of the consultation process with a view to reaching agreement (this could include competitive interview, lesson observations, literacy and numeracy testing) and the Staffing Sub-Committee must respond to any requests for change in the proposed criteria.

10.16 It is important to keep employees informed throughout any selection process to ensure that they are aware of the process being applied. Where agreement has not been reached with the trade unions on the method of selection written reasons for this should be provided to them.

10.17 In some instances it will be necessary to prepare revised job descriptions and person specifications. Great care must be taken when matching individuals, ensuring that fair and consistent approach is taken.

### **Applying the selection criteria**

- 10.18 Refer to the Redundancy/Redeployment Flowchart for information on how to apply the selection criteria. Advice should be sought from Human Resources.

## **11. Criteria for Selection for Redundancy**

### **Volunteers for Redundancy**

- 11.1 Prior to any selection process starting, the Staffing Sub Committee will generally write to affected employees informing them of the selection process to be applied and requesting volunteers for redundancy. This may assist in speeding up the process and avoid the need to go through the planned selection process. At the same time it is important to advise staff that not all volunteers for redundancy may be released depending on the curricular and other requirements of the school. Staff may also be invited to accept voluntary redundancy following a selection process as an alternative to seeking redeployment elsewhere in the Council.
- 11.2 If employees do volunteer for redundancy, and their redundancy is accepted, they can be released on an agreed date. Where an employee accepts voluntary redundancy, **the statutory consultation period set out in TULCRA will not apply** (refer to paragraph 6). However, employees must receive their contractual notice entitlement.

### **The premature retirement/severance process**

- 11.3 When volunteers for Premature Retirement/Severance are canvassed, they should be given a form on which to apply within a set timescale. It should be made clear that any application for estimates at this stage is made with no commitment on either side.
- 11.4 An estimate of their entitlements should then be supplied and the employee(s) asked if they wish to proceed with their application. The employee(s) should be advised that if they sign to accept the estimates, they will only be allowed to withdraw subsequently if there is a difference of more than plus or minus 10% between the initial and the final estimates. In this case they should be given a further period of time in which to accept or decline the revised estimate. Care should be taken to ensure that estimates given are correct and are based on the correct length of service and pay details etc. All estimates provided should be sufficiently detailed for an employee to be able to see how the figures have been arrived at and in accepting the estimate they should be asked to confirm that these details are correct. Where employees accept their estimates, then the Governing Body should decide who out of the volunteers could be released, based on future service requirements and costs.
- 11.5 The Council will agree to calculate and if necessary to adjust the amount of severance payment for those employees who work variable hours on the basis of a formula that provides for the redundancy payment to be adjusted upwards but not downwards when the final hours worked are known.
- 11.6 When the decision as to who can be released has been taken, the employees concerned should be notified of the outcome of their application for Premature Retirement/Severance. Those who have been accepted for Premature Retirement/Severance should be provided with a final estimate of their entitlements.

## **12. Redeployment**

### **Redeployment Process**

- 12.1 Employees who do not have a substantive post arising from the restructuring or who are part of a group of employees for whom there are insufficient posts in the new structure, and who have not volunteered to leave under the voluntary redundancy provisions, shall be declared redeployees. Refer to Appendix A
- 12.2 All employees facing redundancy under this procedure shall be entitled to their contractual notice period of dismissal (the redeployment period).
- 12.3 Employees who are being redeployed for other reasons for (e.g. Medical redeployment) should also be given priority status.
- 12.4 Redeployees shall receive priority in terms of consideration for any vacancy across the Council. All redeployees will be dealt with in accordance with the Council's redeployment process.
- 12.5 Failure to look for alternative employment for potentially redundant employees may make an otherwise fair redundancy unfair.
- 12.6 Where a redeployee is found suitable alternative employment an offer of re-employment should where possible be made before the end of the notice period under the old contract.
- 12.7 Applications from redeployees for vacant posts should be given priority over other applications, i.e. from other internal or external applicants. Where a redeployee identifies a post in the redeployment list and puts in an application the employing manager will normally interview that employee within 5 working days of receipt of the application. It should not be necessary to wait for internal or external adverts to be placed by the manager. This does not prevent a due selection process being conducted which may include internal/external advertising and shortlisting. However in making any decision on appointment to a post, the manager should give priority to any redeployee who is appointable to the post with a reasonable amount of training.

### **What is Suitable Alternative Employment?**

- 12.8 The Staffing Sub-Committee are required to make offers of suitable alternative employment, where such employment is available, to redundant employees; otherwise a subsequent redundancy dismissal may be unfair. If an employee unreasonably refuses an offer of suitable alternative employment they forfeit their entitlement to a redundancy payment.
- 12.9 The meaning of suitable employment is broadly that the employment offered must be substantially equivalent to the employment, which has been lost. In deciding what is suitable alternative employment, the Staffing Sub-Committee therefore need to consider:
  - the pay and grading of the new post
  - the location of workplace
  - the hours of work
  - the employee's particular circumstances
  - any relevant medical considerations

12.10 Whether a refusal of suitable alternative employment is reasonable or not will relate to the personal circumstances of the employee in relation to the job. It is therefore possible for suitable alternative employment to be reasonably refused. Ultimately these are questions of fact to be decided by an Employment Tribunal considering an application for a redundancy payment by the employee.

12.11 There will be circumstances where the Staffing Sub Committee should offer a redundant employee a post knowing in advance that this can reasonably be refused, e.g. a similar, but lower-graded post. The post would be offered to the employee with the advice that refusal would not jeopardise any subsequent redundancy payment.

### **Refusal of Suitable Alternative Employment**

12.12 An employee who unreasonably refuses to accept an offer of suitable alternative employment may be dismissed with no liability by the Council/Governing Body to make a redundancy payment.

## **13. Trial Periods**

### **Redeployment Trial**

13.1 If suitable employment is found for a redeployee, there is provision for a 28 day redeployment trial, which may be extended. The manager and redeployee should meet weekly to discuss the progress of the 28 day trial. If it becomes apparent to the manager during the course of the trial period that the employee is not suitable for the post, the manager should discuss his/her concerns with the employee. If those concerns can not be resolved and the trial period is not successful then the employee will revert to their post and to the redeployment pool, where efforts to find them alternative employment will continue to be made during the remainder of the notice period.

13.2 The redeployment trial period is distinct from the statutory trial period (see below) in that it does not require the original contract to be terminated and can be ended by either side.

### **Statutory Trial Periods**

13.3 In law if an offer of alternative employment can be made, the redeployee has a statutory right to a trial period of 4 weeks in the new job. The statutory trial period cannot begin until the previous contract is terminated. The trial is for a fixed four weeks only and can only be extended for training purposes which must be set out in writing including revised termination date and terms to be applied after that date. If the employee works beyond the four weeks, or beyond the revised agreed termination date, then they will be deemed to have accepted the post as suitable alternative employment.

1.4.1 The purpose of the trial is to give the employee a chance to decide whether the new job is suitable without necessarily losing the right to a redundancy payment. If the job proves unsatisfactory for the employee they can leave and do not lose the right to a redundancy payment provided that the job was not in fact suitable, and provided that their action in refusing the job was not unreasonable. There may be more than one statutory trial period: if one job is found to be unsuitable the employee may try out another.



### **Time off to look for other Employment**

- 13.5 Redeployees who are under notice of redundancy have a statutory right to a reasonable amount of paid time off to look for work and/or arrange training for new employment. Reasonable time off may also be granted to voluntary redeployees subject to the exigencies of the service.
- 13.6 Any time off needs to be approved in advance by the employee's line manager. What is reasonable will depend on all the circumstances including the needs of the service, and how far the employee needs to travel etc. Generally, where adequate notice of the need for time off has been given and there is no pressing reason why time off cannot be given then it is generally reasonable to give time off.

## **14. Dismissal**

### **Dismissal Procedure**

- 14.1 An offer of interest in premature retirement/severance will normally only be made once, and that shall normally be at the point at which an employee is advised that they are potentially redundant. The Staffing Sub Committee shall reserve the right, in the interests of maintaining the requisite skills/knowledge and experience in the organisation, to determine whether or not an employee can be offered premature retirement/severance.
- 14.2 Where an interest in premature retirement/severance has been expressed by an employee, and that has been accepted by management, then that employee shall be advised of the arrangements for their dismissal from the Council/School's employment by virtue of redundancy.
- 14.3 Employees may be released with pay in lieu of notice where it is in the interests of the organisation to do so, but normally all staff will be required to work their contractual notice period. The decision on the granting of pay in lieu for the whole or part of the notice period is a matter for the Executive Director of CYPS/Chair of Governors.
- 14.4 Dismissals and notice periods are effective from the date of the dismissal decision. The Local Authority must either withdraw the employee from the school or issue a notification of termination of the employment contract within 14 days. If the employee is successful at appeal they will be re-instated. It is, however possible that an appeal might be concluded within the notice period.

### **Termination of Employment**

- 14.5 Those members of staff whose details have been sent to the LA as surplus to requirement must be given notice of the termination of their employment within 14 days.
- 14.6 In the case of Community Schools this is done by the LA and must be done within 14 days of receiving the information.
- 14.7 In the case of Voluntary Aided and Foundation schools, the termination notice is issued by the Governing Body.

In all cases notice must be issued no later than the following dates:

**Teaching Staff:**

**by 31 May, 28(29) February, 31 October**

**Non-Teaching Support Staff:**

**within contractual notice periods**

## **15. Amount of Redundancy Payment**

- 15.1 Any employee with over two year's service who is made compulsorily redundant is entitled to receive a statutory redundancy payment. This is calculated in accordance with the provisions of the Employment Rights Act 1996 (ERA) and the amount of any statutory redundancy payment can be computed by reference to the ready reckoner attached at Appendix B. Under the provisions of the ERA, the amount of a week's pay is subject to a maximum limit that varies from time to time. However, the Council will exercise its discretion to calculate redundancy payments for staff on the basis of actual salary, not the statutory maximum.
- 15.2 Under the provisions of The Redundancy Payments (Local Government) (Modification) Order 1984 ("the Modification Order") previous continuous Local Government (or equivalent) Service will count towards computing the number of years of service of an employee for the purpose of calculating the employee's redundancy payment.
- 15.3 In addition the Council has discretion in certain circumstances, e.g. where employees are released on premature retirement/severance, to make an enhanced redundancy payment using statutory powers vested in the Council. In the case of school staff it is the governing body that agree the level of enhancement. However if this is in excess of the Council schedule, the Governing Body will be liable for the additional costs.
- 15.4 The relevant regulations set out the maximum amount that the Council has the power in its discretion, to pay by way of enhanced redundancy payment. The Council has a Severance Scheme that it will review at regular intervals in consultation with the Trade Unions.
- 15.5 Redundant employees are eligible for the Council's Premature Retirement Scheme if they are contributing to the Superannuation Fund, are aged 55 years or over, and have at least two years reckonable service. Under the Premature Retirement Scheme the entitlements on dismissal include a basic superannuation lump sum and pension entitlement based on actual reckonable service.

## **16. Special Considerations**

### **Equal Opportunities Considerations**

- 16.1 It is important that in every redundancy situation, full consideration is given to equal opportunities for all employees, regardless of their sex, race or national origin, colour, religion, disability, age, marital status or sexual orientation.
- 16.2 It is important, not to apply criteria for selection that may indirectly discriminate against one particular gender or race or which would constitute discrimination under the Disability Discrimination Act 1995. For example to select on the basis of attendance records may well discriminate against disabled staff (unless absence due to disability is excluded); to select on the basis of length of service

may indirectly discriminate against female staff where a larger proportion of female staff are likely to have a shorter length of service than male staff.

### **Disability and Redundancy**

- 16.3 The Disability Discrimination Act 1995 ("the DDA") makes it unlawful to discriminate against disabled employees. Discrimination can occur:
- Where the disabled employee is treated less favourably than others for a reason which relates to the employee's disability unless the treatment is justified; or
  - Where the disabled employee is placed at a substantial disadvantage in comparison with others who are not disabled and reasonable adjustments to workplaces and practices are not made; or
  - Where the disabled employee is victimised by being treated less favourably for having complained about disability discrimination, or having brought a claim, or having assisted someone who has brought a claim under the DDA.
- 16.4 In the context of a redundancy situation it is important to ensure that nothing is done that contravenes the provisions of the DDA and that reasonable adjustments are made, whether in applying a selection criteria, in the consultation process, or in the consideration of suitable alternative employment. The Staffing Sub-Committee should refer to the Council's *Guidance to governors for complying with the provisions of the Disability Discrimination Act 1995*. In difficult cases, governors are advised to seek further advice/guidance from their HR section / Legal Services.

### **Maternity and Redundancy**

- 16.5 An employee on maternity leave, who fulfils the relevant conditions set out in the Employment Rights Act (1996), is entitled to return to the job in which she was employed on no less favourable terms and conditions.
- 16.6 If the employee on maternity leave is unable to return to her previous job by reason of redundancy, she is entitled, where there is a suitable available vacancy, to be offered alternative employment (in preference to other employees). The provisions of the alternative employment must not be substantially less favourable than if she had returned to the original job. The employee is entitled to be offered any suitable alternative employment even if it arises before she notifies the Council of her intended date of return.
- 16.7 Where an employee on maternity leave is potentially redundant, the Headteacher must therefore ensure that the employee is provided with all necessary information, in particular in relation to vacancies, and that they are consulted. If necessary, there should be home visits. (These provisions should also apply to an employee otherwise absent for a pregnancy related reason.) Employees should also be informed that they are required to maintain regular contact with their line manager and/or HR section.
- 16.8 Unless Premature Retirement/Severance terms are agreed, the minimum period during which alternative employment is sought should be to the end of the period of maternity leave, paid and unpaid, to which the member of staff is entitled: employees should not be made compulsorily redundant during maternity leave.

- 16.9 Headteachers should take all reasonable steps to facilitate redeployment of employees made redundant during maternity leave. This includes steps in relation to arrangement of meetings, interviews, testing, and childcare provision.
- 16.10 An offer of alternative employment cannot be withheld only on the basis that the employee cannot take up the post immediately. The post should be held for the employee until her period of maternity leave ends, if necessary covered on a temporary basis.
- 16.11 **If the employee cannot be offered alternative employment, the last day of service will be the date on which the employee was otherwise due to return to work. The Council will not expect the repayment of any payments made under the occupational maternity scheme.**
- 16.12 It is automatically unfair to dismiss a woman by reason of redundancy where the reason, or, if more than one, the principle reason for her selection for redundancy is a pregnancy/maternity related reason. There is no qualifying period of employment for a claim of unfair dismissal for reasons connected with pregnancy, i.e. the employee does not have to have one year's continuous service to bring such a claim.

## 17. Appeals

### Appeals against dismissal

- 17.1 In cases where the Governing Body wishes to dismiss a member of staff from the school, the Education Reform Act 1988 provides that the Governing Body must allow that person the opportunity of appealing against the decision fourteen days before the decision is communicated to the LA. This appeal would be the subject of a Governor's hearing by the Appeal Panel.
- 17.2 Any appeal must be submitted in writing, stating the grounds for the appeal to the governing body within 5 working days of the appellant being informed of the dismissal decision.
- 17.3 On receipt of an appeal, a panel of governors shall be called within 5 working days to hear the details of the appeal and make a decision.
- 17.4 The panel will consist of no fewer than 3 governors. They shall not have been involved in the identification process, or the initial representation hearings. . A representative of the Executive Director of Children & Young People's Service, who has not previously been involved in the case, shall be invited to advise the Appeals Committee and the employee will be informed of her/his right to be represented by a work colleague or a trade union representative.
- 17.5 Any documentation to be used during the hearing and details of any witnesses to be called should be submitted by both parties [Management side or Employee side]. These submissions should be distributed to all panel members of the Appeals Committee and both parties at least 3 working days beforehand or may be deemed inadmissible by the Committee, and the Clerk to the Governors [or other nominated clerk] informed of any witnesses that will be attending.
- 17.6 Governors are advised to have available at any appeal hearing;

- A budget summary (where necessary)
- Details of the new structure
- The rationale for identifying the post/person as surplus to the needs of the school
- A copy of the letter to staff and representatives (Section 188 letter) and any appendices to that letter.
- The letter sent to the employee by the Chair of the Staffing Sub Committee stating that s/he had been recommended for dismissal by reason of redundancy
- Any written representation submitted by the employee or her/his representative

17.7 They should ensure that they have sufficient information to properly consider the case.

17.8 The hearing will consider solely the grounds of appeal against dismissal on the grounds of redundancy decision and the employee will be advised as to the outcome at the end of the hearing or as soon as practicable thereafter.

17.9 The decision of the appeal committee/panel is final.

17.10 If the appeal reverses the dismissal decision the termination notice must be rescinded. The LA should be informed of the decision of the Appeal Committee and the details of the members of staff identified must be sent to Head of Human Resources so that the appropriate action can be taken.

## Appendix A

### Model Agenda for Committee Hearings

**SSC** = hearing by members of the Staffing Sub Committee

**AC** = hearing by Appeal Committee

1. Welcome and introductions
2. Approval of agenda and checking of documents presented
3. 

SSC	The headteacher or other representative explains the need to delete a post, resulting in the dismissal of the employee by reason of redundancy and may call witnesses. The headteacher may be accompanied by an HR Officer.
AC	The chair of the Staffing Sub Committee hearing explains the reasons for the Staffing Sub Committee's decision to dismiss the employee by reason of redundancy; the chair of the Staffing Sub Committee may be accompanied by the headteacher and may call witnesses
4. The member of staff concerned and/or trade union representative may ask questions of:

SSC	the headteacher or other representative and of the witnesses
AC	the Chair of the Staffing Sub Committee and headteacher and witnesses
5. Members of the committee may ask questions of:

SSC	the headteacher or other representative and witnesses
AC	the Chair of the Staffing Sub Committee and headteacher and witnesses
6. The member of staff and/or trade union representative, makes representations against the proposed dismissal (or dismissal in the case of an appeal) by reason of redundancy.
7. 

SSC	The headteacher may ask questions of the member of staff and/or trade union representative and witnesses.
AC	The Chair of the Appeal Committee may ask questions of the member of staff and/or trade union representative and witnesses.
8. Members of the committee may ask questions of the member of staff and/or trade union representative and witnesses.
9. 

SSC	The headteacher may make a final statement and sum up
AC	The Chair of the Staffing Sub Committee may make a final statement and sum up
10. The member of staff and/or trade union representative may make a final statement.
11. The chair of the committee tells those present how they will be informed of the committee's decision.

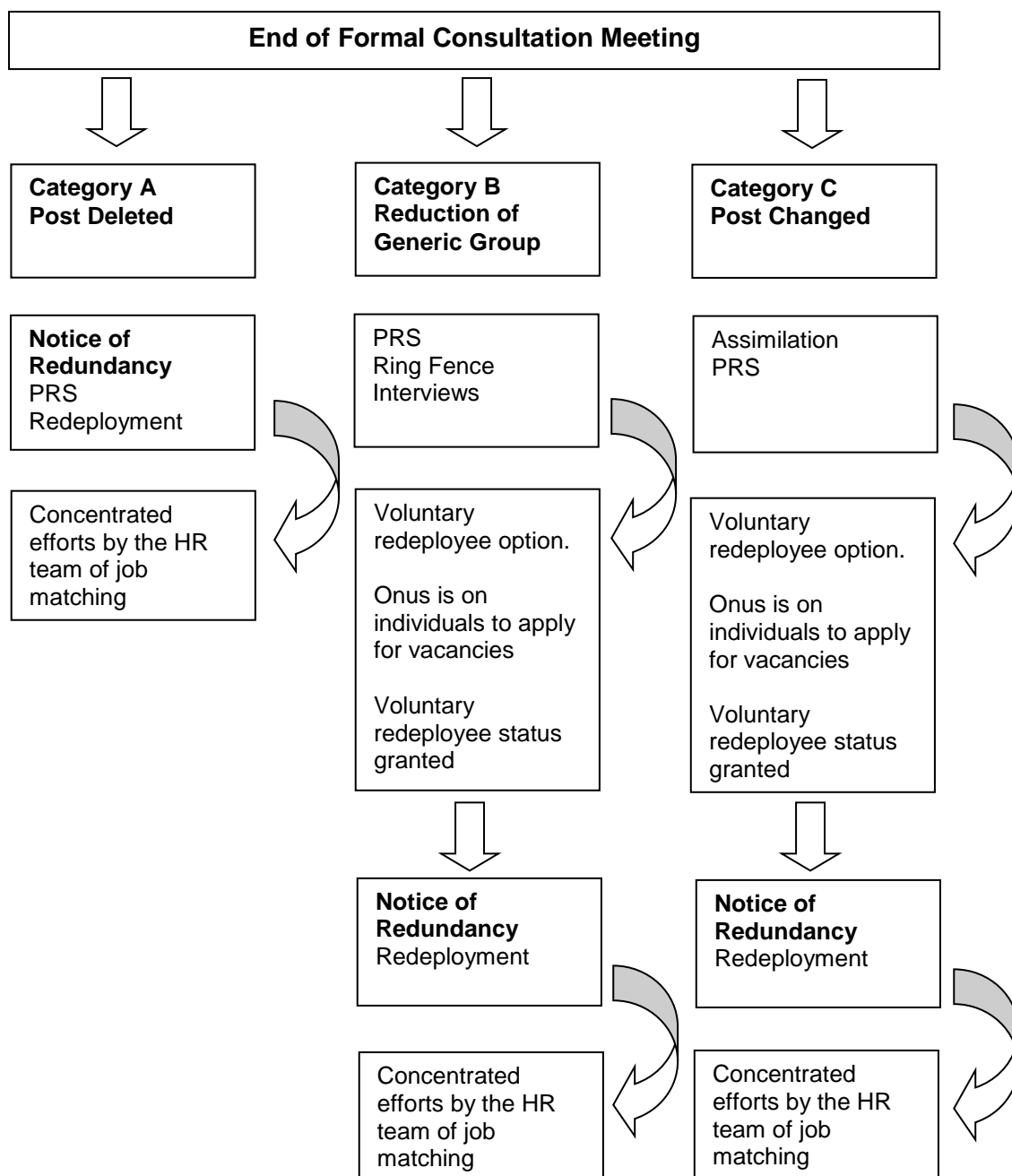
The parties then withdraw to allow the committee to discuss the findings and come to a decision. The LA representative will remain as will (where applicable) the clerk to the committee.

The parties are usually asked to remain available for a short time in case the committee needs to clarify any point.

## Appendix B

### Redeployment Process

The Council has revised its current redeployment process. Under the new proposal the Council intends on supplying employees with the best possible opportunity of redeployment. The process works in the design as outlined below:





## **Appendix B Continued**

### **1. Category A - Where specific posts have been deleted**

- 1.1 Once notification of redundancy is issued at the End of Formal Consultation meeting, category A staff are automatically awarded 'redeployee' status and have the advantage under this process of job matching by the Schools Human Resources team. Resources will be concentrating on 'redeployee' status staff for the duration of their contractual notice period. At the outset this will mean that redeployees will be offered assistance to complete redeployment pro formas. This concentration of Council resources will be possible as the onus for the initial period of 'voluntary redeployee status' for category B and C staff rests with the employee. This allows resources to be dedicated to Category A staff.
- 1.2 Employees with 'redeployee' status have priority over 'voluntary redeployees'. See below for further clarification.
- 1.3 Should two 'redeployees' be equally suitable for a post being recruited then the 'redeployee' with the shortest time before their contractual notice expires will be awarded the post.

### **2. Category B - Where reduction are made from a generic group**

- 2.1 For the initial period whilst PRS estimates and applications are being sought as well as through the ring fence interview process, category B staff have the opportunity to select posts from the 'Schools Vacancy Circular' and notify the HR redeployment team that they would like to apply for a vacancy. Once redeployment pro forma has been completed, the employee is given 'voluntary redeployee' status when applying for vacancies. The Schools Vacancy Circular will be sent to all affected employee's home addresses on a weekly basis.
- 2.2 Voluntary redeployee' status is only offered once a redeployment pro forma has been completed and the onus for this initial period is on the employee to seek alternative posts using the Schools Vacancy Circular for reference and the Council's website.
- 2.3 Whilst an employee has 'voluntary redeployee' status, should they apply for the same post as a 'redeployee' and the job requirements be equal, the 'redeployee' will be given priority and awarded the post over a 'voluntary redeployee'.
- 2.3.1 Once ring-fenced interviews have concluded, and notices of redundancy are issued to category B staff their redeployment status becomes automatic and elevated 'redeployee'. It is at this point that the Schools Human Resources team will start the job matching exercise for these redeployees.
- 2.5 If an employee is seeking PRS and is a 'voluntary redeployee', once the employee has been notified in writing of the acceptance of their PRS application their redeployee status will be withdrawn.

### **3. Category C- Circumstance where the job changes**

- 3.1 For the initial period whilst assimilations are being held and PRS applications sought, category C staff will have the opportunity to select posts from the 'Schools Vacancy Circular' and notify the Schools HR team that they would like to apply for a vacancy. Once redeployment pro forma has been completed, the

employee is given 'voluntary redeployee' status when applying for vacancies.

- 3.2 The same process is applied for category C employees as that to category B.
- 3.3 Once assimilation has concluded, and notices of redundancy are issued to category C staff their redeployment status becomes automatic and elevated to 'redeployee'.
- 3.4 If an employee is seeking PRS and is a voluntary redeployee, once the employee has been notified in writing of the acceptance of their PRS application their redeployee status will be withdrawn.

#### **4. Other Redeployees**

- 4.1 Other staff that are on the redeployee list (e.g. medical redeployees) will not generally be under notice of dismissal and will therefore be given equivalent priority to voluntary redeployees under this proposal. However, where an employee may face dismissal on grounds of ill health in the immediate future, or where the provisions of (e.g.) the Disability Discrimination Act may so require, such redeployees may be given equivalent status to redeployees.

## Appendix C - Ready Reckoner – Statutory Redundancy

This table shows the number of weeks pay which would be used for Severance.

Age	Service (Years)																		
	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
17*	1																		
18	1	1½																	
19	1	1½	2																
20	1	1½	2	2½	-														
21	1	1½	2	2½	3	-													
22	1	1½	2	2½	3	3½	-												
23	1½	2	2½	3	3½	4	4½	-											
24	2	2½	3	3½	4	4½	5	5½	-										
25	2	3	3½	4	4½	5	5½	6	6½	-									
26	2	3	4	4½	5	5½	6	6½	7	7½	-								
27	2	3	4	5	5½	6	6½	7	7½	8	8½	-							
28	2	3	4	5	6	6½	7	7½	8	8½	9	9½	-						
29	2	3	4	5	6	7	7½	8	8½	9	9½	10	10½	-					
30	2	3	4	5	6	7	8	8½	9	9½	10	10½	11	11½	-				
31	2	3	4	5	6	7	8	9	9½	10	10½	11	11½	12	12½	-			
32	2	3	4	5	6	7	8	9	10	10½	11	11½	12	12½	13	13½	-		
33	2	3	4	5	6	7	8	9	10	11	11½	12	12½	13	13½	14	14½	-	
34	2	3	4	5	6	7	8	9	10	11	12	12½	13	13½	14	14½	15	15½	-
35	2	3	4	5	6	7	8	9	10	11	12	13	13½	14	14½	15	15½	16	16½
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14½	15	15½	16	16½	17
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15½	16	16½	17	17½
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16½	17	17½	18
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17½	18	18½
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18½	19
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19½
42	2½	3½	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
44	3	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½
45	3	4½	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
46	3	4½	6	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½
47	3	4½	6	7½	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
48	3	4½	6	7½	9	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½
49	3	4½	6	7½	9	10½	12	13	14	15	16	17	18	19	20	21	22	23	24
50	3	4½	6	7½	9	10½	12	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½
51	3	4½	6	7½	9	10½	12	13½	15	16	17	18	19	20	21	22	23	24	25
52	3	4½	6	7½	9	10½	12	13½	15	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½
53	3	4½	6	7½	9	10½	12	13½	15	16½	18	19	20	21	22	23	24	25	26
54	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	20½	21½	22½	23½	24½	25½	26½
55	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22	23	24	25	26	27
56	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	23½	24½	25½	26½	27½
57	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25	26	27	28
58	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	26½	27½	28½
59	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28	29
60	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	29½
61+	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	30

61\* -The table stops at age 61 because for employees age 61 and over, the payment remains the same as for age 61.