



*Achieving together in faith*

**Holy Cross Catholic Multi Academy Company (MAC)**  
**Redundancy and Restructuring Policy**  
**2024 - 2027**

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## Definitions

In this Restructuring and Redundancy Policy and Procedure, unless the context otherwise requires, the following expressions shall have the following meanings:

1. '**MAC**' means the Holy Cross Catholic Multi Academy Company and references to 'MAC' include, as the context may require, all sites upon which it is operating, including:
  - **Bishop Ullathorne Catholic School**
  - **Cardinal Newman Catholic School**
  - **Christ the King Catholic Primary School**
  - **St Augustine's Catholic Primary School**
  - **St Elizabeth's Catholic Primary School**
  - **St John Vianney Catholic Primary School**
  - **St Thomas More Catholic Primary School**
  - **Central Establishment Head Office.**
2. '**Articles**' means the MAC's articles of association from time to time.
3. '**Board**' means the board of directors (each, a '**Director**') of the MAC.
4. '**Chair**' means, as applicable, the Chair of the Board or the Chair of the Local Governing Body of an applicable School at the relevant time.
5. '**Clerk**' means the Clerk to the Board or the Clerk to the Local Governing Body of the School appointed from time to time, as appropriate.
6. '**Chair**' means the Chair of the Board of the Directors, or the Local Governing Body appointed from time to time.
7. '**CSEL**' means the Catholic Senior Executive Leader of the Mac appointed as its chief executive in accordance with the Articles (or the person carrying out that function in the absence of a CSEL at any applicable time).
8. '**Companion**' means a willing work colleague (not family member) not involved in the substance of an applicable employee's performance issues under review under this Policy, or recognised representative of a trade union who should be available for the periods of time necessary to meet the timescales set out in this Policy.
9. '**Diocese**' means the Roman Catholic Diocese of Birmingham.
10. '**DSC**' means the Diocesan Schools Commission of the Diocese or such other education service as is provided by the Diocese at any applicable time, which may also be known or referred to as the Birmingham Diocesan Education Service ('**BDES**').
11. '**Governors**' means the governors appointed and elected to the Local Governing Body of the School from time to time (each, a '**Governor**').
12. '**Headteacher**' means the headteacher of a School or person holding equivalent office with overall responsibility for the day-to-day management of that School.
13. '**Head Office Team**' means the staff whose principal engagement with the MAC is in its central executive team.
14. '**LGB**' means the Local Governing Body of a School appointed in accordance with the Articles.
15. '**Policy**' means this policy and the policies and procedures contained within it.
16. '**School**' means an applicable school within the MAC, and also refers to all sites upon which the school undertaking is, from time to time, being carried out.

17. **'Vice-Chair'** means the Vice-Chair of the Board or an applicable LGB at any relevant time.

18. Words and expressions not otherwise defined in this Policy shall, unless the context requires otherwise, have the meanings attributed to them in the Articles.

## 1. Introduction

- 1.1 Catholic schools aim to be places where love of one's neighbour is obvious at all times. As St. John reports, Christ said to His disciples at the Last Supper 'This is my commandment, that you love one another, as I have loved you'.
- 1.2 Catholic schools are staffed by teachers and support staff who are not only qualified and expert in their own field but who also, having freely chosen to work in a Catholic institution, commit themselves to care for and support each other in every way possible consistent with the teachings of Christ, Gospel values, Catholic doctrine, and the ethos of the school.
- 1.3 Holy Cross Catholic Multi Academy Company (MAC) has adopted this policy in order to promote positive working relationships and equal opportunities in employment, including restructuring and redundancy, so that all employees feel valued as members of Christ's family and recognise that they are being treated equitably.
- 1.4 All members of our school communities have a duty to ensure that Gospel values underpin the relationships within the school and should draw on the guidance offered in 'Christ at the Centre'. Whilst not definitive, the core values based on the Beatitudes may be summarised as follows:
  - faithfulness and integrity;
  - dignity and compassion;
  - humility and gentleness;
  - truth and justice;
  - forgiveness and mercy;
  - purity and holiness;
  - tolerance and peace;
  - service and sacrifice (Christ at the Centre' 2008 Fr Marcus Stock STL MA).
- 1.5 Holy Cross Catholic MAC acknowledges its obligation to promote a positive working environment.
- 1.6 Holy Cross Catholic MAC is also aware of its duties under racial, disability and gender equality laws including the training of employees in their responsibilities.
- 1.7 This policy will be applied in accordance with statutory regulations for the governance of Holy Cross schools which may apply at any time in accordance with the procedures and delegations adopted by Holy Cross Catholic MAC under those regulations.
- 1.8 This document sets out the MAC and school policy for handling redundancy situations to comply with the requirements of employment law if redundancy appears to be a possibility. This policy does not form part of the employee's terms and conditions and may be subject to change.
- 1.9 The MAC is the employer of all employees working for it within the Schools, including the Head Office Team regardless of length of service or type of contract where employees are

at risk of redundancy. The Board of Directors are responsible for deciding whether an employee should be dismissed on the grounds of redundancy.

- 1.10 If there's a genuine redundancy, employers must follow a correct procedure and make redundancy and notice period payments.
- 1.11 The trade unions have a key role to play at all stages and staff have a right to consult with their professional association/trade union at any stage of the process.
- 1.12 This policy is for use by Holy Cross Catholic MAC. Some academies' governance terminology differs within Archdiocesan Multi Academy Companies. This policy uses the term Director to represent Trustees of the Company. The term Local Governing Body is used throughout.

## **2. Redundancy – The Law**

Redundancy is a special form of dismissal which happens when an employer needs to reduce the size of its workforce. Redundancy is defined in Section 139(1) of the Employment Rights Act 1996. Dismissal by reason of redundancy occurs when the dismissal is wholly or mainly for the following reasons:

- The school/MAC has ceased, or intends to cease, continuing the business for the purposes of which the employee was employed (known as 'business redundancy' i.e. a school closure, or
- The school/MAC has ceased or intends to cease carrying on the business in the place in which the employee was employed (known as 'place of work redundancy' i.e. a school with two sites to close one of its sites and employees' roles at a particular site are redundant).
- The requirements of the school/MAC for employees to perform work of a specific type, or to conduct it at the location in which they are employed, has ceased or diminished, or are expected to do so (known as 'employee redundancy' e.g. a change of curriculum has led to a reduced need for modern language languages etc.

Redundancy is a potentially fair reason for dismissal.

There is a right not to be unfairly dismissed by reason of unfair selection for redundancy (*Trade Union and Labour Relations (Consolidation) Act and Employment Rights Act*). Therefore, there is a general duty to consult an employee and their trade union where there are recognised trade unions in order to avoid unfair dismissal claims. Case law has shown that dismissals can be unfair if an employer fails to consult with an individual employee as well as the trade unions.

Although hearings held under this policy are not disciplinary or grievance hearings and are therefore not subject to the provisions of the Employment Relations Act 1999 as amended, nonetheless under this policy, an employee is entitled to be accompanied at a hearing if they will be accompanied in accordance with this policy.

It's automatically unfair to make an employee redundant for a number of reasons, including:

- sex

- gender reassignment
- marital status
- sexual orientation
- race
- disability
- religion or belief
- age
- your membership or non-membership of a trade union
- health and safety activities
- working pattern, for example part-time or fixed-term employees
- maternity leave, birth or pregnancy
- paternity leave, parental or dependants leave
- you're exercising your statutory rights
- whistleblowing, for example making disclosures about your employer's wrongdoing
- taking part in lawful industrial action lasting 12 weeks or less
- taking action on health and safety grounds
- doing jury service
- you're the trustee of a company pension scheme

The MAC as part of the process, will undertake an Equality Impact Assessment (EIA).

There are provisions in the Employment Rights Act 1996 giving redundant employees the right to time off to look for other work or make arrangements for training.

## **2.1 Internal re-organisation and redundancy**

Internal re-organisation may or may not lead to a redundancy situation. In each case the legal tests of redundancy must be applied. The school must consider whether work is to be removed or diminished or redistributed.

Headteachers should discuss with the MAC and the HR provider any proposal involving the removal or reduction of teaching and learning responsibility payments, removing a post on the leadership spine, in order to determine whether or not a redundancy situation exists and consider whether a period of safeguarding applies.

The law says employers must start this consultation 'in good time'. What counts as in good time will depend on the circumstances. However, the school/MAC must start consultation:

- at least 30 days before the first proposed dismissal or redundancy, if there are between 20 and 99 employees.
- at least 45 days before the first proposed dismissal or redundancy, if there are 100 or more employees.

Case law emphasises the crucial importance of fair objective selection for redundancy, namely the fair application of objective and non-discriminatory criteria.



## **2.2 Employers should:**

- take all reasonable steps to avoid redundancies.
- manage redundancies legally and in a way that minimises the potential adverse impact on both those who lose their jobs and the 'survivors'.
- implement a communication strategy to ensure that everyone in the school has correct information about any redundancies.

This policy should be implemented when considering any restructure proposals which may result in there being fewer posts in the applicable School or Head Office Team and/or if those proposals have a detrimental impact on employees (e.g. reduction in working hours, reduction in specific work required or salary).

## **3. Policy Aims**

The MAC's overriding aim is to avoid compulsory redundancies wherever possible, and to manage the MAC in a way that continues to provide employment for its employees. However, from time-to-time changes (for example, a fall in pupil roll, cuts to funding, reduction in specified work etc) may necessitate the need to consider redundancies.

Where the MAC is unable to avoid reducing employee numbers, it will try to minimise the effect of redundancies through the steps set out in this Policy. In doing so the MAC will not discriminate directly or indirectly on grounds of gender, sexual orientation, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, religion or belief, disability or age. Part-time employees and those working under fixed-term contracts will not be treated differently to permanent, full-time comparators where applicable. The only proviso to this is where a relevant post must be held by a practising catholic and carry with them a 'genuine occupational requirement'.

## **4. Policy Purpose**

The purpose of this Policy is to have a framework in place that sets out what we will do whenever the reduction in employee numbers may become necessary. In particular, we will ensure that the MAC:

- follows the planning, identifying the pool for selection, consult employees, seek volunteers from the ring fence, have fair selection for redundancy, consider suitable alternative employment, variation in contract, arrange dismissal and appeal (if necessary), ensure appropriate redundancy/notice payments, offer counselling and support;
- communicates clearly with all affected employees and ensure that they are treated fairly;
- makes every reasonable effort to avoid compulsory redundancies;
- consults with employees and, where appropriate in accordance with clause 5, with recognised trade unions; and

- ensures that any selection for compulsory redundancy is undertaken fairly and reasonably.

Examples of circumstances in which redundancy might be considered if alternative strategies such as workforce planning, employee turnover are not successful:

- a reduction in the number of pupils admitted to the school and a consequent reduction in the number of teachers and/or support staff need to teach and support them;
- a accumulative or predicted financial deficit in the school budget leading to decisions to provide education with fewer employees overall;
- an unsustainable proportion of the school's budget committed to staffing costs;
- changes in the curriculum of the school and a reduction in the need for teachers of a particular subject
- centralisation of support services, whereby less support staff are required;
- a long-term reduction in the number of pupils choosing a particular subject;
- closure of a sixth form or school when there is no replacement school to which the employees will be transferred as part of a statutory re-organisation;
- cessation of specific funding streams or external funding

## **5. Planning and Redundancy Payments**

The MAC will endeavour to ensure that there is effective work force planning, financial management and resource allocation in place in the day to day and strategic management of the MAC. The MAC will regularly review its resources and staffing structure(s) to ensure, so far as is reasonably practicable, that it is fit for purpose and is meeting the needs of its pupils' teaching and learning requirements.

The MAC will ensure that effective workforce planning is carried out with a view to minimising surplus staff situations.

It should be noted, that only those employees with at least two years' continuous service and who have not obtained alternative employment covered by the Modifications Order at the date of the termination of their employment will be entitled to a redundancy payment. This service may be as a result of a number of consecutive fixed term contracts.

The MAC will use actual weeks' pay statutory or contractual pay, whichever is the greatest to calculate the redundancy payment.

Employees dismissed by reason of redundancy are entitled to normal contractual notice on full pay.

## **6. MAC Responsibilities**

The MAC has a responsibility to ensure that:

- This Policy is followed in all cases of redundancy
- Redundancies are minimised wherever possible
- Redundancy processes are applied fairly and consistently
- Selection criteria used are fair, objectively applied and non discriminatory
- Full and open consultation with staff and recognised unions
- Where possible suitable alternative work is offered within the MAC
- All staff have an awareness of this Policy

## **7. Avoiding Redundancies**

Wherever possible the MAC will plan to try to avoid or minimise redundancies where future staffing reductions are likely. Consideration will therefore be given to:

- Achieving reductions through 'natural wastage'
- Restricting recruitment of permanent staff if necessary
- Reducing the use of temporary/agency staff whilst recognising their employment rights
- Reducing working hours where staff are in agreement or where it is considered a suitable alternative variation of contract
- Using existing staff to fill vacancies at the MAC
- Job share, flexible working requests and part time variation to contracts

## **8. Voluntary Redundancies**

The MAC will, so far as is reasonably practicable, seek volunteers for redundancy prior to imposing compulsory redundancies. There is no commitment (on either the employee concerned or the MAC) if an employee expresses an interest in applying for voluntary redundancy. During the consultation with staff expressions of interest in voluntary redundancy will be invited from those employees who have been identified as being at risk of redundancy, including those absent, such as sickness, maternity, secondments etc.

Once the expressions of interest have been received, the Headteacher or other nominated person will ask for redundancy estimates to be prepared.

Employees at risk of redundancy should be encouraged to seek information on the implications for their pension, if they are 55 years of age or older, on the pension options available to them if made redundant.

The MAC does not have to agree to make an individual voluntary redundant/severance, as they to consider the needs of the school(s) and multi academy i.e. retention of skills, experience, qualifications, cost etc.

The MAC will ensure that employees who have been accepted for voluntary redundancy will receive written confirmation of the decision. The letter will include confirmation of when the termination date will be and whether or not the employee will be required to work their notice period or be paid in lieu of it. As a voluntary redundancy is still a

dismissal in law, employees accepted for redundancy should still be given a right of appeal before an impartial appeals panel.

The MAC cannot justify offering voluntary redundancy to age groups eligible for an early retirement package, this would be unlawful discrimination.

If there are more volunteers for redundancy, than required, then the MAC will ensure a fair selection process.

If there is not a sufficient number of expressions of interest in voluntary redundancy, and/or where the MAC cannot agree to an individual request for voluntary redundancy, then a redundancy panel of scorers, will be responsible for selection of employees for compulsory redundancy. The panel of scores, which would normally be at least two leaders or nominated managers who know the experience, skills and knowledge of those posts in the ring fence and have access to the relevant information to fairly score for selection.

## 9. Maternity and Family Leave – Special Provisions

- 9.1 Pregnant employees, or those on maternity, paternity, adoption or parental leave may still be included in a pool for selection for redundancy and employees who are pregnant or on maternity leave will be invited to consultation meetings and considered for redeployment. However, pregnancy or absence on maternity, adoption or any parental leave must not be used as a selection criterion for redundancy.
- 9.2 Where an employee has already commenced their maternity/adoption leave and are selected for possible redundancy, they **must** be offered any available suitable alternative employment even if it means they are treated more favourably than other employees who are also at risk of redundancy and without having to compete for a post if there is more than one suitable candidate. This applies even if another employee is better qualified for the post in question.
- For this clause to apply:
- the employee who is on maternity/adoption leave must be capable of doing the work.
  - the place where they are required to work, and all the other terms and conditions of employment must be suitable (see section 15 on suitable alternative employment).
- 9.3 This preferential treatment outlined in 8.2 above applies at the point of implementation, for example:
- The point at which redundancy notice letters are being issued confirming who is being made redundant **or**
  - When the selection procedures are commencing which would affect the employee on maternity or adoption leave.
- 9.4 Employees who are on maternity leave or adoption leave during formal consultation but who return to work at the point of implementation/selection are not entitled to this

preferential treatment. However, Line Managers must ensure that these employees are fully engaged during the consultation period.

9.5 HCC MAC HR team will ensure that any employee who is made redundant while absent on maternity leave receives written reasons for their dismissal whether this has been requested or not.

9.6 Any employee who is made redundant while on maternity/adoption leave will still be entitled to a notice payment in line with their contract of employment even if they are made redundant whilst on leave.

## **10. Pool of Affected Employees During a Restructure with or without a Redundancy Process**

### **10.1 Teaching Staff**

In relation to teaching staff, for the purposes of this Policy and Procedure, 'work of a particular kind' in a Primary School setting will normally include all Teachers within the School regardless of whether the restructure/area of reduction has been identified as a specific Key Stage. In a Secondary School setting 'work of a particular kind' may be defined according to a distinct subject area and therefore it may be possible to define a 'pool' as those Teachers who working within a specific department/subject area.

### **10.2 Support Staff**

For support staff, the pool of affected employees will be defined by the Headteacher or Line Manager (for the Central Team) having regard to the type of work that is reducing and following advice from the Central Team/HR Partner.

### **10.3 All staff**

Any identified 'pool' should include employees who are absent through illness, maternity/adoption leave or on secondment. The explanation and rationale for the proposed pool must be shared with the employees and Trade Unions during consultation.

## **11. Mapping of Posts During a Restructure and/or Redundancy Process**

11.1 Once the pool has been identified, posts in the current staffing structure should then be compared with those in the new staffing structure. Posts should be classed as one of the following:

- **unchanged** – the post remains the same or substantially the same with the same hours and grade.
- **unchanged but 'at risk'** – although the post remains more or less the same with the same hours and grade, the number of like posts are reduced in the new staffing

structure resulting in there being more individuals than posts and therefore there is a potential risk of redundancy;

- **changed** - the post has changed considerably;
- **removed** – the post ceases to exist on the new staffing structure for example where a service or work of a particular kind is being discontinued or reduced;
- **new (where applicable)** – a new job where there is no equivalent in the current structure.
- **vacant** - the post remains the same in the new structure but was vacant in the current structure.

11.2 Where an employee's post is classed as 'unchanged' and where the number of like posts remain the same or is increased in the new staffing structure an employee will be slotted in without the need to go through a selection process.

11.3 Where an employee's post is classed as 'changed' or 'removed', this potentially places them at risk of redundancy.

11.4 In order to assess comparability to posts within the new structure, current and the new job descriptions should be used to make objective, accurate decisions. However, if the current job descriptions do not exist or are out of date, the MAC will ensure that comparability decisions are based on accurate and comprehensive information. This will be done either by drawing up an up-to-date job description with the employee and their Line Manager or by ensuring that an Appendix is added to their current job description detailing any agreed amendments which need to be taken into account during the matching exercise.

11.5 The matching exercise will be undertaken independently by a minimum of two people. Decisions must be based purely on factual and objective reasoning which can be justified and evidenced.

11.6 If an employee disagrees with the matching decision made, they will have an opportunity to meet with at least one of the employees or Directors who conducted the matching exercise to explore and discuss the rationale. Employees are entitled to be accompanied at such a meeting by a Trade Union representative or work colleague.

11.7 Employees who are acting up/seconded to a post  
An employee who is acting up/seconded to a post and who has another job in the school that is their substantive post (i.e. not an acting up or secondment position) will be assessed against the criteria in relation to their substantive post and not the acting up or seconded post.

11.8 Employees who are temporarily undertaking additional duties

Where an employee is temporarily undertaking additional duties in their substantive post, these will not normally be taken into account during the matching exercise.

## 12. Expressions of Preference

12.1 At the end of the consultation period, all affected employees who are matched to more than one post will be required to complete an 'Expression of Preference' Form. If more than one employee expresses a preference for a particular post and both are matched to that post, a selection process will always be undertaken. If only one employee expresses a preference for a particular post and is matched to that post, they will be confirmed in the post, but the manager will also identify any support and development needs which will be required to ensure that the employee is able to meet the requirements of the post. Employees will be considered for posts subject to special provisions of employees who are on maternity leave (section 9 above) and to the ring-fencing criteria as outlined in section 13 below.

## 13. Ring Fencing

13.1 **If a restructure involves the introduction of new posts and/or includes vacant posts**, these posts will, in the first instance, be made available to all employees who fall within the scope of the restructure regardless of whether they have a comparable post in the new structure unless the post is a reserved post in which case the post must be openly advertised to all. Employees will be required to undergo a selection process to determine which staff, if any, should be appointed to the new and/or vacant posts. By filling new posts first, this may mitigate against the need for redundancies in other areas of the structure.

13.2 **If a restructure involves the introduction of changed posts** which contain substantial elements of two or more previous job descriptions, only directly affected employees will be ring fenced. Employees who are in a ring fence may be required to undergo a selection process to determine which staff should be appointed to the new posts (see 12.1 above).

13.3 Where the number of staff in the ring fence matches the number of available posts, a selection process may still be undertaken to determine whether the employees' skills and experiences match the essential requirements of the job (allowing for the possibility of re-training where practicable). This provision may apply even where there is only one member of staff in the ring fence unless the employee is job matched to an available post (see 13.4 below).

13.4 Where a single employee is matched to a changed post within the new structure, they will be confirmed in the post, but the manager will also identify any support and development needs which will be required.

13.5 Further details on possible selection processes are given in section 13 below.

## 14. Compulsory Redundancies

Where there are:

- Not enough or no volunteers.
- Employees who have volunteered but Governors/MAC do not feel able to agree to voluntary redundancy due to their required knowledge, experience, qualifications, skills etc.
- No other avenues to explore to avoid redundancies, such as redeployment etc.

The MAC will have to consider compulsory redundancies. The selection for compulsory redundancies will be done using criteria which is fair, objective, consistent and non-discriminatory. The panel will score those employees in the agreed selection pool against the chosen selection criteria.

The MAC and/or school may decide to undertake a skills audit of those employees in the relevant pool before proceeding with the selection process.

The relevant person will meet with the redundancy panel to discuss the scoring. The panel will decide whether to accept the recommendations of the panel and who shall be selected for redundancy.

The MAC and/or school can also consider interviewing as part of a fair selection process.

The nominated person can disclose to each directly affected employee their score, explaining how this score was reached and a copy of their individual scoring matrix. The employee has the right to see a copy of the selection matrix setting out the scores of all employees in the selection pool, but the name of each employee must be redacted for data protection purposes.

Each person provisionally selected for redundancy will be invited to a hearing before the redundancy panel.

## **15. The Redundancy Process**

### **15.1 Prior to consultation**

A business case for redundancy will be considered by Local Governing Body (LGB)/Board of Directors.

Once it has been established that there is no option of avoiding redundancies, the MAC will determine the number, method of selection, appropriate ring fence and types of post/s, which may be surplus to its needs. This will be done in consultation with applicable Headteachers and other senior leaders.

Discussions at this stage will be restricted to the broad issues to ensure that Directors who may be involved in the Redundancy or Appeal committees will not have detailed prior knowledge.

Two panels of Directors will be established (usually three people in each panel) a Redundancy Committee and an Appeals Committee. No employee of the MAC will be on either committee but may be required attend to present the case or answer questions. The committees may be advised by an HR adviser, who will not be a member of the applicable committee. A formal record of the proceedings will be kept, such as minutes.



The Redundancy Panel has delegated authority to consider the redundancy issue and produce draft proposals for solving the problem. The Appeal Committee is to hear appeals against selection for redundancy. No Director can serve on both committees or on either committee if they have or may have an interest in the outcome.

## 15.2 Consultation

The minimum statutory period for consultation is as follows:

- At least 30 days before the proposed dismissal or redundancy, if there are between 20-99 Employees.
- At least 45 days before the proposed dismissal or redundancy, if there are 100 or more employees.

Although there is no set statutory period for less than 20 employers the MAC will apply at least 30 days consultation period. Directors will consult the recognised Trade Unions of the employees affected when proposing redundancies.

To start the consultation, process a letter will be sent to all unions which will meet the requirements of Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended by the Trade Union Reform and Employment Rights Act 1993 which will outline the following details:

- Why it is felt redundancies are necessary.
- The numbers and descriptions of employees whom it is proposed to make redundant and the total number of employees in these positions.
- The proposed method of selecting staff for redundancy.
- The proposed method of carrying out the dismissal and the timescale over which this will take place.
- The proposed method of calculating any redundancy pay.
- The date and time of the first consultation meeting.

At the same time the CSEL/Headteacher will inform staff of the situation providing them with a copy of the letter sent to unions and confirming the date of the first consultation meeting.

Staff who are on maternity or adoption leave, or long-term sickness leave will also be consulted and kept informed of the situation. An employee who is on maternity or adoption leave who has been selected for redundancy must be offered any suitable alternative vacancy available in preference to other employees under consideration for redundancy.

During the consultation process comment will be invited from both unions and ring-fenced staff to help produce a constructive approach to the situation. Consultation will include:

- Strategies to avoid redundancies
- The reason for the proposed staffing reduction
- Where there is a financial reason for redundancy, full budgetary information
- The procedure to be used for redundancies
- Selection criteria for identifying posts which will be made redundant.

- Selection criteria in the event of too many volunteers for redundancy.

Agreement will also be reached on dates of any subsequent meetings.

All employees will be consulted with regardless of length of service.

### 15.3 Selection

When considering selection for redundancy a fundamental basis is that the ongoing needs and requirements of the MAC are of primary consideration. Criteria for selection will be fair and in line with its equal opportunities policy.

The draft proposals, if any, established by the Directors' Redundancy Committee may identify specific posts as a result of, say, a management reorganisation and/or use a range of criteria spread across the affected groups of staff.

The principles governing the standard selection criteria will be:

- the requirements of the curriculum, management, pastoral and organisational needs of the School/MAC;
- the match of qualifications, experience, the flexibility of an employee to teach and/or work, as applicable, in other subjects/areas in the School/HCC MAC measured in relation to the curriculum, pastoral and organisational needs of the School/MAC;
- degree of involvement of the employees concerned with the areas of work which are declining or have declined;
- the consideration of any applications for voluntary options where appropriate in an effort to avoid the need to make any compulsory redundancies.

Criteria used could include:

- Willingness to accept voluntary redundancy, if agreed by the MAC
- Qualifications
- Experience
- Knowledge, skills
- Performance management
- Curriculum needs
- Contribution to the broader life of the MAC/school
- Management and organisational needs of the school
- Attendance record (provided that absences for maternity, paternity, industrial injury if the employer has accepted a claim, adoption or disability are not taken into account).
- Disciplinary record, live formal warnings
- Last in, first out, provided that this is not the main or sole criterion, and it is a proportionate means of achieving a legitimate aim

A staff member can be assessed on performance before starting maternity leave.

Directors will consult on draft criteria and establish a scoring formula for the criteria. Unless the proposals for staffing reduction are self-selecting, Directors will use three or

four criteria which are weighted according to importance. It is also possible to give “plus points” to certain staff (e.g. post holders who have difficult-to-replace skills). Although it may be clear fairly quickly who the draft criteria has identified, this will not take place formally until consultation has taken place. All selection processes will be conducted ‘anonymously’ i.e. no names will be included on any paperwork.

When the consultation process has finished the Redundancy Committee of the Board will meet to review all the information gathered during the consultation process and consider whether volunteers can be released. Volunteers will be advised at this stage whether their application has been successful and that they have the right of appeal against the decision made.

If there are not enough volunteers, staff will be asked to complete a criteria matrix with support from the CSEL/Headteacher or appropriate manager. Once these have been completed Directors will meet again to agree which people are at risk of redundancy.

When a person has been identified as ‘at risk’ either through the application of the selection criteria or because a specific job has been identified they will be informed in as sympathetic way as possible. A letter will be sent confirming they are at risk, and they will be informed of their right to make representations and their rights of appeal. Representations must be made in writing within 5 working days of delivery of the letter.

Rights of representation are to the Redundancy Committee and enable an individual to present against their selection. If the individual decides not to make representations a redundancy notice will be issued.

#### **15.4 Representation Meeting**

Individuals will be given 5 working days written notice of a meeting which will confirm their right to be accompanied by a friend or trade union representative (reasonable requests to delay will be considered).

Realistically unless there can be demonstrated to be a legal or procedural error or other significant flaw in the process, it is unlikely the Redundancy Committee will overturn the decision. The simple fact that the person does not like the outcome will not be a good reason to overturn a decision.

An HR Provider can act as advisor to the panel who can also be supported by the Headteacher. Provided all processes and procedures have been fairly applied, it is most likely that most cases will end at this stage.

The Redundancy Committee will confirm to the individual in writing the decisions of the panel and inform them of the right of appeal to the Appeal Committee. Notes of the proceedings of the panel will be kept.

The process for conducting Representation Meetings is set out in Appendix A

#### **15.5 Dismissal**

If the Redundancy Committee decides to uphold the original decision a redundancy notice will be issued. Staff made redundant will be entitled to notice as per their contract of employment. Where it is not possible to serve notice in time for the individual to be given their statutory or contractual notice it will be paid in lieu, and they will not be required to work.

The CSEL or applicable Headteacher and the Redundancy Committee will consider requests from individuals who have been issued with a redundancy notice to leave prior to their redundancy date based on the operational needs of the MAC.

## **15.6 Appeal**

At least 5 working days' notice of the meeting will be given (reasonable requests to delay will be considered).

At the Appeal hearing, the whole case will be heard by the Appeal Committee. The presentation to the Appeal Committee will be by the chair of the Redundancy Committee who may be assisted by the CSEL and/or the applicable Head Teacher, explaining what the Redundancy Committee did and why. The appellant then puts the case against. The appellant must have all relevant paperwork.

The appeal panel may:

Dismiss the appeal; or  
Uphold the appeal

If the appeal is upheld the redundancy notice will be withdrawn.

The MACs adherence to the correct procedures, timescales and fair selection criteria will lessen the risk to it of such a claim being successful. Accordingly, contemporaneous notes of all proceeding will therefore be taken and kept.

## **16.0 Suitable Alternative Employment (SAE)**

It is a statutory duty of every employer to seek to find somebody 'at risk' of redundancy suitable alternative employment.

If appropriate jobs become available, when redundancies are likely, prime consideration will be given to staff 'at risk' provided they meet the minimum criteria for selection for the relevant post(s).

Suitable alternative employment should be considered and offered where possible, right up to the date of dismissal. If such employment is offered and accepted, the employee concerned will have a statutory right to a trial period of four weeks in the alternative job where the term of the new contract differs from those of the original one. However, if the employer offers the redundant employee suitable alternative work, and they unreasonably refuse this, then the employee will not be entitled to a redundancy payment.

Throughout the period that an employee is vulnerable to redundancy, the Headteacher or other nominated leader will ensure that the employee has reasonable access to any vacant posts within the school. If a post is suitable, a meeting will be arranged to

consider the employees suitability and to discuss any training. When it appears that a post may not be suitable alternative, a trial period will be arranged, and employee informed of the reasons why it is not considered suitable alternative.

**17. Notice Periods**

**17.1 Support Staff**

The period of notice is one week’s notice for each completed year of continuous service up to a maximum of twelve weeks. Wherever possible, support staff who work all year round should have taken their proportionate annual leave entitlement up to the end of their notice period before their contract terminates.

**17.2 Teaching Staff**

Teaching Staff are entitled to the appropriate notice in accordance with the national Conditions of Service for School Teachers.

**17.3 Teaching Staff (excluding Headteachers)**

Finishing date	31 December	30 April	31 August
Notice under contract to be given by	31 October (*)	28 February (*)	31 May

(\*) These dates **must** be brought forward where relevant to ensure that the teacher receives at least one week notice for each year of continuous service up to a maximum of 12 weeks.

**17.4 Headteachers**

Finishing date	31 December	30 April	31 August
Notice under contract to be given by	30 September	31 January	20 April

**17.5 All Staff**

Employees are normally required to continue attending work throughout their notice period in the event of their contract being terminated by HCC MAC on the grounds of redundancy. However, where this is provided for in an employee’s contract of employment, HCC MAC reserves the right to pay an employee in lieu of notice and require the employee not to attend their place of work during the notice period. In such cases the employee will be placed on ‘garden leave’ but will remain employed by HCC MAC and so bound by the terms of their contract of employment.

**18. Pay Protection and Redeployment/Restructure**

18.1 Employees subject to School Teachers' Pay and Conditions Document (STPCD) who are redeployed into a lower graded job covered by the STPCD or whose post changes as a result of a restructure, will receive pay protection, where applicable, in accordance with the provisions of the STPCD.

18.2 Where applicable, pay protection for support staff will be paid for a period of six months from the date the lower graded work is commenced unless the employee has a protected entitlement greater than two years which has been transferred as a result of a TUPE process.

## **19. Redundancy Payments and Access to Pension Benefits**

19.1 If an employee is dismissed on the grounds of redundancy, they will be eligible to receive a redundancy payment provided they have at least two years' continuous service at the date of termination. The MAC's policy is to calculate redundancy payments based on gross week's pay (i.e. the statutory cap will not apply) unless the statutory entitlement would be higher in which case payment would be based on the statutory amount. Continuous service is defined by any service with employers listed in the Modification Order. Redundancy payments are based on an individual's age, gross weekly pay (or statutory entitlement where higher) and the length of service (subject to a maximum of 20 years' service as set out in Appendix 1).

19.2 Verified continuous service with organisations covered by the Redundancy Payments Modification Order (RPMO) which has not previously been the subject of a redundancy payment will be included in any calculation for a redundancy payment. Employees may be obliged to produce documentary evidence of such service and must disclose if they have previously received a redundancy payment from an organisation covered by the RPMO.

19.3 Employees accepting an offer of employment which commences within four weeks of the termination of their employment with HCC MAC will be required to pay back their redundancy payment if the new employer is covered by the RPMO.

19.4 In either a voluntary or compulsory redundancy process, eligible employees may also receive early release of earned (basic) pension benefits in accordance with the Local Government Pension Scheme regulations or Teachers' Pension Scheme regulations, as appropriate and are advised to see further information from the relevant pension provider.

## **20. Staff on Fixed Term and Casual Contracts and Redundancy Payments**

20.1 Where an employee has been employed by the MAC on a fixed term contract or casual supply basis continually for a period of 2 or more years, they may be entitled to a redundancy payment. A period of one week constitutes a break in service. However, periods of school closure do not count as a break in service.

20.2 The termination of a fixed term contract to cover illness, secondment or maternity is not a reduction in staffing so does not lead to a redundancy situation as there is no reduction in the establishment figure. However, in other situation where the non-renewal of a fixed

term contract does lead to a reduction in the establishment, this will lead to a redundancy situation.

## **21. Employee Support**

21.1 HCC MAC will allow reasonable time off to employees under notice of redundancy to enable them to seek alternative work or undertake training for future employment. Any requests for time off should be made as far in advance as possible to the employee's Headteacher/Line Manager.

21.2 The MAC recognises and understand that organisational change may have a significant impact on employees and may involve periods of uncertainty, HCC MAC is committed to supporting employees through periods of change and to minimizing any negative impact. Support offered may include the following areas, and the MAC will utilise internal and external expertise wherever possible as appropriate;

- Information on pensions and other benefits
- redundancy payments
- assistance with applications/interviews etc.
- redeployment support
- training guidance and support

21.3 The Care First, Employee Assistance Programme (EAP), offers employees access to free 24/7 confidential telephone counselling support on any personal, work or family issue on the freephone telephone number – 0808 168 2143. Every MAC employee can phone the service for ad-hoc in-the-moment support 24 hours a day, 7 days a week. If it is clinically appropriate, an employee will be referred by the service for contracted counselling. Each employee is entitled to receive an agreed number of contracted telephone counselling or face-to-face counselling sessions.

21.4 Employees can also receive support from their Trade Union and from the Jobcentre Plus Rapid Response Service.

21.4 Managers should be mindful that employees who are known to experience mental health issues may require additional support and reasonable adjustments during any period of change. Further sources of support can be found in HCC MAC Mental Health and Wellbeing Policy.

## **22. Assistance from the Diocesan Education Service**

The Diocesan Director of Education must be advised when employees are at risk of redundancy and may send a representative to advise the Directors' Dismissal Panel and/or the Directors' Redundancy Appeals Panel.

## 23.0 Timetable

The MAC realises that the following of all of the procedures and compliance with appropriate consultation will cover a significant timespan, and it will therefore endeavour to begin the process at the earliest possible date. An example of a typical timetable is given in Appendix B.

[Calculate your employee's statutory redundancy pay - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/how-to-calculate-your-employees-statutory-redundancy-pay)

[Acas | Making working life better for everyone in Britain](https://www.acas.org.uk/)



## Appeal Hearing Procedure

The Chair will make introductions.

- 1) The Chair of the Redundancy Committee (possibly aided by the CSEL and/or applicable Headteacher) will present the Committee's case for its selection of the individual for redundancy.
- 2) The Employee and/or their representative may ask questions.
- 3) Members of the Appeal Committee may ask questions.
- 4) Employee and/or their representative make their representations against selection for redundancy.
- 5) CSEL/Headteacher/Chair of Redundancy Committee may ask questions.
- 6) Appeal Committee may ask questions.
- 7) Chair of Redundancy Committee/CSEL/Headteacher sum up if they wish.
- 8) Employee and/or their representative will sum up if they wish.
- 9) Parties leave the room. The note taker and any HR advisers will remain.
- 10) The Committee will make its decision and will advise all parties in person and/or put it in writing within 5 working days.

If the Appeals Committee decide to confirm the original decision the appellant will be advised of any further right of appeal (if any).

If the Appeals Committee upholds the appeal the redundancy notice will be withdrawn.

**Please note:** If no representations are made the redundancy notice can be issued a week after the member of staff is formally notified of the outcome from the Redundancy Committee meeting.

## Outline Redundancy Timetable

	Actions Required	Likely Timescale	Date to be Actioned
Preparation and Planning Up to 6 weeks	Decision taken to act on potential problem. CSEL/Headteacher to provide evidence to support proposal to reduce staffing to the Board for determination that the process should take place		
	MAC Board meets CSEL/Headteacher supported by HR Provider.  Board members appointed to Redundancy Committee and Appeals Committee.  Redundancy Committee meeting to agree timetable and draft compulsory selection criteria for consultation		
Consultation Period 5 weeks	S188 notice to recognised Trade Unions. Notice given of formal meeting with staff. Invite recognised TU's.	1 day	
	Talk informally to staff and provide them with a copy of S188 notice advising them of date of first formal consultation meeting	1 day	
	Formal meeting with staff, CSEL/Headteacher and Trade Unions at which copies of timetable, criteria, financial information and any other relevant information are distributed. Plus, where appropriate notification of closing date for expressions of interest in roles, voluntary redundancy and ways of avoiding redundancies will be discussed.	1 day	
	Period of consultation <ul style="list-style-type: none"> <li>• 1:1 meetings</li> <li>• Counselling</li> <li>• suggesting other options to avoid redundancy</li> <li>• opportunity for volunteers to come forward</li> <li>• calculation of entitlements</li> </ul>	4.2 weeks	

	<b>Actions Required</b>	<b>Likely Timescale</b>	<b>Date to be Actioned</b>
<b>Selection up to 3 weeks</b>	Redundancy Committee meeting supported by CSEL/Headteacher and HR Consultant to consider proposals from the consultation period, voluntary applications and make provisional decision to select posts for redundancy	1 day	
	If there are no viable proposals/volunteers CSEL/Headteacher holds individual meetings with staff to complete matrix exercise, then Headteacher completes master matrix	Up to 2 weeks	
	If no viable proposals or volunteers' redundancy Committee meets again supported by CSEL/Headteacher and HR provider to consider evidence, and makes decision to slot staff to new posts and select posts for redundancy	1 day	
<b>Dismissal Procedure 2 weeks</b>	Member(s) of staff and Trade Unions informed of outcomes. Member(s) of staff given 5 working days to indicate wish to make representations and then 5 days' notice of Redundancy Committee representation hearing. Consideration of suitable alternative employment and counselling	2 weeks	
	Redundancy Committee hearing takes place to receive representations. Decisions announced. Member(s) of staff advised of right to appeal within 5 working days	1 day	
<b>Notice Period Up to 3 months</b>	Redundancy notice issued by MAC	1 day	
	Staff who make appeals given 5 days' notice of meeting Redundancy notice withdrawn if decision overturned.	Up to 2 weeks	