St Cyprian's Greek Orthodox Primary Academy

ΠΑΝΤΑ ΙΣΧΥΩ ΕΝ ΤΩ ΕΝΔΥΝΑΜΟΥΝΤΙ ΜΕ ΧΡΙΣΤΩ ΙΝΑ ΑΡΙΣΤΕΥΩ

I AM STRONG THROUGH JESUS CHRIST

TO THE BEST THAT I CAN BE

RESTRUCTURING, RE-ORGANISATION AND REDUNDANCY POLICY

Revised: July 2026

Reviewed and ratified by Full Governing Body:

Date: 15th JULY 2026

Signed:

Name: PETER TRAGOULIAS

Position: Chair of Academy Trust

Date of next review: July 2027

Mission Statement

The aim of St. Cyprian's Greek Orthodox Academy is to provide its children with a primary education of the highest quality in a supportive learning environment, through the National Curriculum in the core subjects, enriched by the progressive learning of the Greek Language, culture and Christian Orthodox religion. The children of St Cyprian's Greek Orthodox School will be equipped with the knowledge, skills and spirituality to enable them to achieve their full potential and to prepare them to contribute positively to the challenges of a diverse multi-cultural society.

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1. SCOPE

This policy and procedure will apply to all employees of the School/Academy, but will not apply to centrally appointed staff that work within the school, as they have their own procedures.

2. INTRODUCTION

2.1 Periodically, governing bodies may need to consider changes in their staffing complement. The need for change may arise as a result of, for example but not exhaustively, budgetary constraints, curriculum requirements, demographic changes, school re-organisations etc.

2.2 Given the wide and varying nature of organisational reviews, this policy is intended to provide a framework for good practice in restructuring and re-organisation. It is intended that these arrangements ensure that re-organisations are carried out as swiftly as possible so as to ensure the continuity and quality of service delivery.

2.3 The School is committed to the principle of avoiding or minimising compulsory redundancies wherever feasible and ensuring that alternative methods such as natural wastage and redeployment are used to manage reductions during the course of re-organisations. Re-skilling and re-training of staff will also be considered in appropriate circumstances.

2.4 Where there is likely to be a redundancy situation, the school should liaise with their financial advisers at the earliest opportunity

2.5 This policy provides guidance on restructuring exercises which may cover a team or a department, involve more than one department or cover the whole school.

Options which governing bodies will need to consider include:-

- reductions in the total number of staff;
- adjustments to staffing levels in different management and/or curriculum areas;
- adjustments to working and/or contract hours of staff;
- a combination of these measures.

This chapter outlines the obligations of governing bodies in these situations and offers advice on possible ways of managing change fairly and co-operatively.

Governing bodies are reminded that the obligations upon them, as set out in this chapter, apply both to permanent (including part-time staff) and the majority of fixed term staff.

In order to exercise its role effectively in consultations, the governing body will need to set up a committee (sometimes referred to as the first committee) to lead the process and an appeals committee (sometimes referred to as the second committee) to hear any appeals associated with the process. Governing bodies may use existing committees to undertake these roles: it is essential that members of the appeals committee have not been part of the committee leading on the reorganisation.

3. CONSULTATION REQUIREMENTS

Consultation is a legal requirement. Any proposal to alter the terms and conditions of staff requires consultation with staff and their representatives and therefore the first thing that the Governing Body will do is to authorise the Head Teacher to begin consultations on their behalf. If the Head Teacher is affected by the potential re-organisation then the authority to consult will be delegated to a designated Governor.

Under the school's pay policy it will also be a requirement to consult staff about any proposed changes to the school's staffing structure.

The Governing Body will need to write a business case explaining the rationale for the change and the proposed changes. An Equalities Impact Assessment (EIA) on the proposal should be carried out. Guidance on completing an EIA can be sought from your HR service provider.

3.1 STAGE 1 - Proposals and Consultation

3.1.1 Informal Consultation – Initial Proposals
Trade Unions/Professional Associations and employees must be informed as early as possible that a re-organisation is being considered and informal consultation initiated.

Before staff are informed of any proposals, the School will write to senior representatives, at borough level, of the recognised Trade Unions and Professional Associations (See Chapter 7a of the Schools' HR Handbook), inviting them to attend a meeting to discuss the proposals. The invitation will include details of the proposals and a sample letter for situations involving potential staffing reductions can be obtained from your CEP (Croydon Education Partnership) HR Consultant if you purchase the Employee Relations package.

Following the meeting with Trade Unions and Professional Associations there will be a meeting with staff and their representatives to explain the proposals (this can be immediately after the first meeting with Trade Unions and Professional Associations)

3.1.2 Formal Consultation - Initial Proposals
Following the initial meeting with the representatives of the Trade Unions and Professional Associations, formal proposals should be put to the employees and trade unions, by writing to every member of staff that is affected, either directly or indirectly. This letter and the business case will provide details of the initial proposals and invite them to attend a group consultation meeting to discuss them.
The consultation should involve all affected staff and therefore it is important to make arrangements for consulting staff who are away from the workplace e.g. on maternity/paternity leave (see Section 9), long term sickness or secondments.

The proposals should clarify:

- the reasons for the reorganisation,
- the broad principles upon which the new structure or new work processes will be based,
- the new functions and arrangements which will remain within the School/team,
- the new functions and processes which will be transferred to any partner organisations.

In the case of a whole-school restructuring, if some parts of the structure remain unchanged this should be indicated at the earliest possible stage and this part of the structure excluded from the reorganisation.
Consideration will need to be given as to how the reorganisation will be phased, managed and implemented, whilst ensuring the appropriate input of all those concerned and a consistency of outcomes.
Important - If it is envisaged that there will be a reduction in the number of posts as a result of the re-organisation then this will constitute a potential redundancy situation and the school will follow the process described at 7. of this chapter.

3.2 STAGE 2 – Assimilation Process

The arrangements to deal with assimilation to each re-organisation will be tailored to meet the circumstances and will be proposed to and discussed with the Trade Unions/Professional Associations.

3.2.1 Where re-organisations are taking place jointly with partners, for example a federated school, where posts in both organisations are affected and potentially displaced by the changes, the assimilation process will need to be negotiated with the partner.

3.2.2 Where there is a need for a reduction in the number of staff, the Chair of Governors should firstly consider whether the required reductions can be made without the need for compulsory redundancies i.e. through: voluntary redundancy, natural wastage, recruitment freezes, reductions in overtime, agreed changes to part-time working and cessation of temporary workers. In such circumstances, and before any agreements with individuals are reached, consideration must be given to all costs involved, including any on-going pension costs; and the skills base required for the school after the changes.

3.2.3 The arrangements that should be considered are outlined below.

4. DEFINING THE RING FENCE & ACCESS TO NEW POSTS

4.1 As a first step it will be necessary to identify the relevant pool of staff who are affected by any re-organisation. Only staff within the ring-fenced group will be eligible to be assimilated to posts in the new structure, i.e. if the employee's substantive post is being deleted as part of the re-organisation.

4.2 In most instances the re-organisation will be team or department specific. However, in some instances, structures or functions may be reorganised School-wide and/or in conjunction with a partner organisation e.g. childrens' centres, catering etc and all the staff affected will need to be identified. At the same time relevant Trade Union/Professional Association consultations will need to continue, which may be at a team or departmental level or may even need to be cross-departmental. Once staff have been identified, the trade unions will be consulted on the ring fence, the assimilation process and the selection criteria.

4.3 The staff concerned will also then need to be informed of the ring fencing, assimilation and selection process.

4.4 In determining the ring fence and for assimilation purposes, staff acting up or

seconded will be treated on the basis of their **substantive** post. Temporary employees or permanent staff covering posts temporarily will normally be excluded from the ring fence.

5. JOB MATCHING

5.1 To decide which of the following processes apply, there will need to be a "matching" exercise between the role or functions of the current substantive post and those in the reorganised structure. A panel of Governors (or nominated senior officers) will be set up to undertake the matching process. 13.5.2

This match will be based on the contents of the most up to date job description, together with duties currently carried out by the post-holder. Matches to lower grades will be subject to the personal protection principles outlined in the "Code of Practice for the Redeployment of Staff in Schools" contained in Chapter 14 of the Schools' HR Handbook.

5.2 For 'direct assimilation' (i.e. a match of at least 80%) subject to sufficient numbers of posts being available, appointments may normally be assumed. Where assimilation is assumed, a structural discussion may be undertaken with the individual to explore the areas of work and any new person specification requirements and how these may be addressed. In all other cases, appointments cannot necessarily be assumed since there will be a full assessment against the person specification criteria for the new roles.

5.3 An appeal panel will be set up, consisting of three Governors supported by a representative of the School's HR service provider, to consider any appeals and they will be the final arbitrator where there is a dispute as to the match. Where more than one School is involved, a joint panel will decide.

5.4 Except in cases of direct assimilation. (see para 13.6.1) all appointments to the new structure will be made in accordance with the principles of the School's Recruitment and Selection Policy and Procedure

5.5 Occupational tests, designed to take account of those skills or competencies identified in the new person specification, may in some cases be used to assess either current abilities or potential. All testing must be in accordance with the Council's Code of Practice on Occupational Testing and the school will bear the responsibility for the cost of any testing.

Detailed guidance on job-matching, including the appropriate documentation and how it should be used, should be obtained from your HR service provider before commencing any job-matching process.

6. LEVELS OF JOB-MATCHING

6.1 Match of 80% or more ("No fundamental change")

6.1.1 Direct assimilation will be considered first and is applicable where there is "no fundamental change" in the job content or function from a post in the previous structure and where there are the same number or fewer employees for each post.

6.1.2 "No fundamental change" will be on the basis that there is a significant match i.e. '80% or more' match. In cases of direct assimilation support staff may have access to jobs up to two grades higher.

6.1.3 Where direct assimilation is proposed to a role with changes to the person specification, there will be an interview and an assessment of the extent to which the employee matches the person specification with a view to identifying development needs. Nevertheless, the employee is assimilated into the post as explained above.

6.1.4 **Where there are more "80% matched" current post-holders than there are posts within the new organisation, there will be competitive ring fenced interviews, with staff applying for jobs, setting out how they meet the person specification.**

6.1.5 **Employees assimilated into a role on the basis of an 80% or higher match are not subject to the normal probation procedure in their new role.**

6.2 Matches of 50% up to 80%

6.2.1 Where direct assimilation is not possible because there is no match of 80% between existing and new roles, staff will be asked to submit an application, setting out how they meet the person specification criteria. Support staff may apply as part of a ring fence process for a job up to two grades higher than their existing job if there is a match of at least 50% between their current and new roles. They will then be interviewed as to their suitability, based on the person specification for the new posts. As employees will be required to meet the person specification criteria, appointment cannot be assumed.

Support staff successfully applying for positions following a 50-80% match are subject to the normal probation procedure in their new role

Teachers, as part of a ring fence process, if there is a match of at least 50% between their current and new roles (provided there is no one with a 80%+ match), will be interviewed as to their suitability, based on the person specification for the new posts. As employees will be required to meet the person specification criteria, appointment cannot be assumed.

6.3 Matches of up to 50%

6.3.1 Where there is a match of less than 50% between current and new roles, employees affected by the proposed change may apply as part of a ring fence process for a job up to one grade higher than their existing grade.

Support staff successfully applying for positions after a match of less than 50% are subject to the normal probation procedure in their new role.

7. REDUNDANCY SITUATIONS

7.1 There may be situations where there is a need for a more straightforward reduction in employee numbers. For example:

- A decision to reduce a particular team, resulting in some of the jobs in that team ceasing to exist.
- Improvements in efficiency that result in a reduced need for jobs of a particular type.

Job descriptions and person specifications should be reviewed to determine if there are any changes.

7.2 Definition of Redundancy

The need to carry out some consultation procedures and eligibility for some payments depends on whether there is a case of redundancy as defined by the statutes. It is therefore helpful to know the statutory definition of redundancy when considering the possibility of staff reductions.

A person can be regarded as dismissed on grounds of redundancy if his or her dismissal is attributable wholly or mainly to: -

(a) the fact that his or her employer has ceased or intends ceasing to carry on the business for the purposes of which the employee was employed by him/her, or has ceased or intends to cease, to carry on that business in the place where the employee was so employed; or

(b) the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in a place where the employee was so employed, have ceased or diminished or are expected to cease or diminish.

In the case of a school a redundancy may arise, for example, through school closure or amalgamation, changes in its organisation or through changes in its financial position for demographic or other reasons. There may also be a reduced demand for particular kinds of jobs so that although the total number of people employed at the school is the same there is a reduced demand for people to carry out work of that particular kind.

Governing Bodies are reminded that, if a deleted post remains in the school's structure, this does not constitute a redundancy situation. A member of staff who is dismissed whose post remains would be entitled to bring an action for unfair dismissal against the School.

7.3 Redundancy Consultation

Responsibility for consultation with the recognised professional associations and trade unions lies with the governing body except in cases where the contract of employment specifies that staff may be required to work at other locations in which case responsibility to consult will be with the Council. Governors may delegate the responsibility for leading the consultation process to the headteacher. However, in all cases schools are advised to consult their HR provider to receive help in applying the consultation procedure.

Alternative suggestions made by the Trade Unions/Professional Associations will be given serious consideration, and will be responded to in writing. The objective should be to reach agreement wherever possible.

Governing bodies should allow as long a period as possible for the consultation, planning and implementation processes. This applies particularly in the case of teachers in view of the complex requirements of the Education Act and the fixed teacher termination dates.

Governing bodies should ensure that they have adequate arrangements for:

(a) making and implementing detailed decisions, including the necessary consultations, identification and selection of individual members of staff to be declared surplus to the school's requirements.

(b) hearing representations from individual members of staff who may be aggrieved by any decision reached in relation to their selection or non-selection or any other aspects relevant to the process.

Responsibility for the detailed consultation and implementation, including initial representations from individual members of staff, should be delegated to a committee with responsibility for personnel. A separate appeals committee will need to be established for hearing appeals from individual members of staff.

Formal written notification must be sent to the senior representatives, at borough level, of the recognised Trade Unions and Professional Associations covering the topics referred to in Section 3, (see Appendix 2 – Section 188 notice). In addition to the formal written procedures, meetings should be arranged with the local officials of the Trade Unions and Professional Associations to discuss the implications involved. Every effort should be made to arrange these meetings at times convenient for representatives of the Trade Unions and Professional Associations..

Following these meetings with the Trade Unions and Professional Associations, meetings with the staff directly affected should then be arranged at the earliest opportunity to inform them of the proposals, to discuss the options which will be pursued in order to seek to avoid the need to make staff compulsorily redundant and to outline the assistance which will be available to staff in finding alternative employment. The Trade Unions and Professional Associations should be invited to attend these meetings (Advice on assisting staff with redeployment is contained in Chapter 14 of the Schools' HR handbook).

The school will make available individual consultation meetings for members of staff via one-to-ones with an appropriate member of staff.

7.3.1 There are legal requirements upon employers for consultation with staff and their representatives in a redundancy situation.

7.3.2 For the purposes of consultation, the current legislation states that the representatives may be of a recognised trade union(s) or elected staff representatives. The Council has, however, well established arrangements for consultation with the local representatives of the recognised professional associations and trade unions.

7.3.3 Governing bodies are urged strongly to continue to consult with the local representatives of the recognised professional associations and trade unions.

7.4 Timing of consultation

7.4 1 **Consultation should commence as soon as it is known that reductions affecting staff may be required** (and prior to any selection of individuals), whether or not it is possible they may be achieved by measures other than

redundancy, with a view to reaching agreement with the recognised professional associations and trade unions on these matters.

Addresses of the local branch secretaries can be found in Appendix 7.2 of Chapter 7 of the Schools' HR Handbook or may be obtained from the HR Consultancy in HR & OD Division.

7.4.2 It should include consultation on means of avoiding the dismissals, reducing the number of employees to be dismissed and mitigating the consequences of the dismissals. (See Appendix 3 for template timetable)

7.4.3 The minimum statutory periods for consultation before the first redundancy takes effect are: -

Numbers of staff likely to be made redundant	Minimum Consultation period
20 and under 100	30 days
100 or more	45 days

However, Governing Bodies are urged to begin consultation as soon as it is identified that there exists the possibility of a redundancy situation.

Although there is no statutory obligation to consult with employee representatives where there are fewer than 20 redundancies in an establishment, **Governing Bodies are not absolved from the duty to consult individual employees, and to act fairly in all redundancy situations**. The guidelines in this chapter should, therefore, be followed regardless of the numbers of employees who might be potentially redundant. It is recommended that **a minimum of 30 days** be allowed for consultation, where fewer than 20 employees are involved, before the first redundancy takes effect.

For the purposes of consultation, the employer, i.e. the governing body for this purpose, must disclose, in writing.

i) the reasons for the proposed redundancies;

ii) the numbers and descriptions of staff involved;

iii) the total number of staff of that description employed at the school;

iv) the proposed method of selecting staff to be dismissed;

v) the proposed dismissal procedure including the period over which the redundancies will take effect.

vi) the proposed method of calculating redundancy payments if the statutory maximum is exceeded; (This will include disclosure of any adopted policy to base the redundancy payment on less than the actual salary.

vii) consideration of ways of avoiding or reducing the number of dismissals;

viii) examination of ways of mitigating the consequences of the dismissals. (See para 6)

The above notice must be issued to the following:

- the Executive Director for People (formerly Children, Families and Learning (CFL)) (for maintained schools).
- the school representative of each recognised teacher association and support staff unions in the school;
- the appropriate local representative of each recognised Trade Union and Professional Associations in the school.

Details of the contact information for the local representatives can be found in the Chapter 7a of the HR Handbook.

A sample letter for this purpose (known as a Section 188 letter) can be obtained from your HR Consultant if you purchase CEP (Croydon Education Partnership)'s Employee Relations package.

7.5 Consequences of failure to consult

7.5.1 The requirements of consultation will **NOT** be met if the Trade Unions and Professional Associations are merely presented with a complete package where the relevant decisions have already been taken.

7.5.2 Inadequate or insufficient consultation can lead to the Trade Unions and Professional Associations obtaining a protective award from an Employment Tribunal against the employer. This would require the employer (i.e. the Governing Body) to make a payment for a protected and specified period to staff who have been dismissed or are likely to be dismissed. This payment would be additional to any redundancy payment to which the staff would be entitled.

7.5.3 Employees who consider that they have been unfairly treated in the process may also pursue an unfair dismissal complaint through an Employment Tribunal. Such complaints can include questions relating to the statutory definition of redundancy, the criteria and/or methods for selection, inadequacy of consultation or attempts at redeployment.

Governing bodies are therefore urged to continue to consult with the local representatives of the recognised professional associations and trade unions.

Governing bodies are strongly recommended to seek advice and assistance from their HR service provider on any occasion that it appears that staffing reductions may have to be made.

7.6 Possible Courses of Action to Achieve Staffing Changes

Governing bodies are reminded that it is the policy of the Authority that compulsory redundancies should be avoided wherever possible. Such action should be taken only after all other options have been considered fully.

Options which should be considered initially include:

- adjustments to staffing levels by natural wastage;
- termination or non – renewal of fixed-term contracts of less than 10 months continuous employment ;
- voluntary job sharing arrangements
- termination or non-renewal of agency, casual and supply workers contracts;
- redeployment and/or retraining to other suitable work within the school or to another school within your federation or chain;
- voluntary redundancy
- early retirement (subject to affordability for Teachers);
- phased/flexible retirement;
- voluntary changes to the contract, such as reduction in hours;
- redeployment and/or retraining to other suitable work within the Council;

NB: Where staff accept redeployment within the school they will be given an appropriate trial period in the new post. If transfers are subsequently deemed to be unsuccessful, the acceptance of voluntary transfer will not be used as a factor in selecting staff for compulsory transfer, redeployment or redundancy.

The School should comply with any reasonable request for financial or budgetary information or information about the staffing structure where this will facilitate meaningful dialogue

The Governing Body should co-operate, wherever possible, with the Council's redeployment scheme or in any arrangements which might (e.g. through training) prepare staff for their new role.

Selection criteria

Where all alternatives to compulsory redundancy have been explored and exhausted but the reductions cannot be achieved fully without staff being displaced, the recognised Trade Unions and Professional Associations should be consulted on the detailed criteria to be used to select those posts/staff to be declared surplus to the school's requirements.

These detailed consultations may be conducted by a committee of the governing body or by the head teacher acting on its behalf. Decisions on the agreed selection criteria cannot be delegated to an individual and where the detailed consultations have been undertaken by the head teacher, the results **must** be referred to the relevant committee for approval.

In determining the selection criteria, schools are reminded that the selection pool can shape the future composition of the workforce in terms of age, race, sex, disability, skills and working arrangements (e.g. full-time or part-time).

As the question of who to select for redundancy is a major item on which employers have to consult employee representatives, schools should be clear as to the selection process they intend to use, well before consultation with staff begins. This will not only ease the consultation process but will also give the school time to consider fully the implications which selection can have on future performance.

Therefore:

The selection criteria must be:

- Established after consultation with the Trade Unions and Professional Associations;
- Explicit and published to the staff as a whole;
- Clear, reasonable, fair, objective and precisely defined;
- Non –discriminatory (whether directly or indirectly) on the grounds of gender, marital status, race, national or ethic origins, religion, disability, age, part-time status, sexual orientation or trade union activity. This may occur when a provision, criterion or practice is applied with which a considerably smaller proportion of the group in question could comply and this cannot be justified;
- In accordance with the curricular and organisational needs of the school as set out in the School Development Plan;
- Designed to avoid prejudicing the employee's future employment prospects. Accordingly, the Governors will maintain a clear distinction between redundancy criteria and procedures covering discipline and capability.

The committee of the governing body should then:

(a) identify individual members of staff for redundancy in accordance with the agreed selection criteria;

(b) notify those staff in writing that their posts have been identified as potentially redundant;

(c) give those staff and their representatives the opportunity to appear before the committee to make representations about the identification of their posts;

(d) consider the representations made and notify the member(s) of staff of its final decision.

No public announcements shall be made until all individual employees have been informed.

Appeals

A member of staff may appeal subsequently to a separate appeals committee of the governing body where (s)he remains dissatisfied with the decision affecting his/her post. These provisions are without prejudice to the right of employees to present a case to an Employment Tribunal. For details of the procedure to be followed see the Protocol for Conducting Formal Hearings (Chapter 19 of Schools' HR Handbook).

A representative of the Executive Director for People (formerly Children, Families and Learning has the right to attend and give advice to committees of the governing body of Community Schools/ Voluntary Controlled Schools/Pupil Referral Units at the meetings referred to above.

8. RENEWAL AND RE-ENGAGEMENT

If any school is considering this action they should contact their HR service provider.

If the contract is renewed or the employee is re-engaged, then the effect of continuity for statutory rights will be as follows:

- Any 'break' of up to 4 weeks between the ending of the original employment and the re-engagement by the same authority will count for redundancy purposes and may count for other statutory purposes depending on its length and whether it is covered by the provisions set out in s.212 Employment Rights Act 1996 (ERA), e.g. absence caused by a temporary cessation of work.

- Employees re-engaged within 4 weeks by another authority covered by the Modification Order 1999 will have continuity for redundancy but not for any other statutory rights and will not therefore be entitled to a redundancy payment.

- The 'trial period' will count towards continuity for all statutory employment rights.

- Under s.214 ERA 1996, receipt of a redundancy payment will break continuity for future redundancy payment purposes but not necessarily for other purposes.

Conditions of service benefits

The effect of any break in service will depend on the scheme of conditions in question, the reason for and the length of the break (see, for example, paragraph 14 of the National Joint Council for Local Government Services – National Agreement on Pay and Conditions of Service – the Green Book).

9. EMPLOYEES POTENTIALLY AT RISK WHO ARE PREGNANT ON MATERNITYOTHER PARENTAL LEAVE

9.1 It is important to initially establish whether an employee on maternity leave is actually redundant. The Employment Rights Act (ERA) states that a person is dismissed on redundancy grounds if the dismissal is for any of the following reasons:

- The business is closing down
- The place of work is changing
- The requirement for employees to carry out work of a particular kind has ceased or diminished
- The requirement for employees to carry out work of a particular kind in the place where they were employed has ceased or diminished.

9.2 If, after applying this definition, an employee on maternity leave is redundant, it is necessary to begin the consultation process. Clearly when an employee is on maternity leave, consultation may not be as straightforward since the person is not at the workplace to speak to, write to, invite to briefings and meetings and so on. Schools need to ensure that these employees are not overlooked. Employees on maternity leave are likely to be feeling particularly vulnerable and ensuring that they are fully and regularly informed and consulted will help them not to feel isolated from proceedings.

9.3 If a school fails to consult an employee on maternity leave, an employment tribunal may infer the reason for not doing so was related to her pregnancy. If so, this amounts to direct sex discrimination.

9.4 Case law has established that employers must apply fair selection criteria and then operate a fair procedure to determine which employees will in fact be made redundant.

9.5 However, caution needs to be exercised in being objective about the criteria such as attendance record, efficiency in the job, experience and length of service. For example, any absence for pregnancy related reasons e.g. time off for hospital appointments or sick leave should be discounted. If performance is a criterion, an employee's absence will make assessment of her performance more complex.

9.6 There is also a need to consider how to ensure that the employee on maternity leave can participate in the selection process i.e. can they attend interviews, take part in any assessments etc. A failure to offer employees on maternity leave the same opportunities as other employees may constitute sex discrimination.

9.7 If, having completed the selection process, it transpires that an employee on maternity leave is to be made redundant, there are a number of issues, which need to be addressed. These are:

- Do any suitable alternative vacancies exist? The Regulations specify that a vacancy will be suitable if the work to be done is of a kind that is suitable for the employee and appropriate for them to do in the circumstances. Also, the terms and conditions must not be substantially less favourable than those of their existing contract.

- Where a suitable vacancy does exist then the employee must be offered the post in preference to anyone else who is about to be made redundant or whose employment is at risk for other reasons e.g. on health grounds. This is because the employee on maternity leave is 'entitled to be offered' the vacancy. The result of this could be that one department in the school, which may have several potentially redundant individuals (none of whom are on maternity leave), must offer a suitable vacancy to an employee in another department (who is on maternity leave) before it is offered to any of its own staff. However, a refusal of alternative employment does not affect entitlement to redundancy pay.

- If the redundancy selection process is delayed until an employee on maternity leave returns to work the special provisions concerning offers of suitable vacancies as set out above, apply for a further 18 months following childbirth.

- Where a suitable alternative vacancy exists, it must be offered to the employee before their existing contract expires and must take effect immediately when the old one terminates.

- If there are no suitable alternative vacancies, the employee on maternity leave should be regarded as any other employee who is potentially redundant. There is a need, in consultation with the employee, to consider whether any posts, which are vacant, would be acceptable, even if the terms are less favourable. If no opportunities exist, the school would be entitled to dismiss the employee on grounds of redundancy.

10. FURTHER ADVICE ON THE PROTECTION FROM REDUNDANCY (PREGNANCY AND FAMILY LEAVE) ACT 2023

10.1 Detriment and Discrimination

10.1.1 Direct sex discrimination occurs if a person is treated less favourably than another on the basis of their sex. Case law has established that less favourable treatment on grounds of pregnancy or childbirth is direct sex discrimination.

10.1.2 With effect from 6 April 2024, The Protection from Redundancy (Pregnancy and Family Leave) Act 2023 will expand this protection to not only include pregnant employees, also covers 18 months after childbirth or when they notified the employer the date of the baby's birth.

10.1.3 A employee must not be subjected to any detriment by any act or any deliberate failure to act by her employer because they:

- Are pregnant.
- Has given birth (only applicable during the OML and AML period).

- Took or sought to take OML or AML or availed themselves of the benefits of OML (i.e. the terms and conditions of her contract during OML).
- Is the subject of a relevant requirement or recommendation as defined in s. 66(2) of the ERA (this includes recommendations under the Health and Safety at Work Act etc. 1974) i.e. is suspended from work on maternity grounds.
- Refused to work during their maternity leave.
- Have returned to work following maternity leave and are within the 18-month protection period.

10.1.4 Detriment can cover many things, i.e. failure to be promoted or offered training. An employee who believes that they have been subjected to a detriment can bring a claim to an employment tribunal.

10.1.5 Maintaining contact with employees when they are on maternity leave and informing them of developments and opportunities may help to prevent a situation arising where they believe they have suffered a detriment. It is therefore important that contact is maintained with members of staff whilst they are on maternity leave. They should be kept informed of developments and changes within the department and organisation, e.g. by sending copies of all memos/e-mails where relevant. Contacting staff by phone occasionally during their maternity leave may also help them feel less isolated from work and may make it easier for them to return after a long absence. Arrangements should be agreed before maternity leave commences.

10.1.6 Employees will be able to access internal vacancies and should be supported if they wish to apply for any other posts whilst they are on maternity leave.

10.1.7 Employees should also be given the opportunity to attend training courses or conferences. It should be made clear to all employees on maternity leave that this is entirely voluntary and any refusal to attend will not be detrimental to them.

10.1.8 An employee who believes they have suffered a detriment can bring a claim to an employment tribunal within 3 months of the act or failure to act. If the complaint is upheld, the tribunal can award compensation having regard to the infringement to which the complaint relates and any loss which is attributable to the act or failure to act including any expenses incurred and the loss of any benefit.

10.2 Post-natal depression

10.2.1 Post-natal depression is counted as a disability under the Disability Discrimination Act and absences due to post-natal depression should be considered accordingly. Post-natal depression is defined as a pregnancy related condition and schools should seek advice from the HR provider as and when issues arise.

11. ISSUE OF NOTICES OF DISMISSAL OR CHANGE

The Council is responsible for issuing the notices of dismissal or change of contractual terms to staff employed in schools where the Council is the employer (e.g. all schools except those that are Academies, Voluntary Aided or Foundation Schools). Please note – Academies, Voluntary Aided and Foundation Schools that buy in to the HR Service Level Agreement may request that the HR Consultancy issue such notices on their behalf.

Immediately after a formal decision has been reached by the governing body to declare any staff surplus or to make any change affecting their terms and conditions, the Executive Director for People (formerly Children, Families and Learning) should be informed in writing of the reasons for the change, given full details of the staff affected, the date upon which the reductions are to take effect, and details of any severance terms which have been agreed. Where the detailed consultation arrangements are carried out by the governing body, confirmation should also be given to the Executive Director for People (formerly Children, Families and Learning) that the necessary consultation stages have been completed.

In normal cases, the HR Consultancy will take action to put the change into effect.

The formal notification is of course in addition to the consultations which will have been taking place throughout the whole procedure.

Governing bodies are reminded that the timing of the reductions may be dependent upon the period of notice that staff are entitled to receive (see Sections 3 and 7)

Following selection for redundancy, staff affected will be afforded reasonable paid time off to find alternative work or to make arrangements for retraining. The School should support staff in finding alternative work (whether via the redeployment code or otherwise).

If, following the issuing of dismissal notices, the School is able to find appropriate ways of avoiding the redundancy the Governing Body should adopt such measures and withdraw the dismissal notice.

12. SURVIVING CHANGE

During the change process, the immediate priority for the school is to ensure the fair and sensitive handling of those staff who might lose their jobs or have their terms and conditions of employment changed. The future effectiveness of the school, however, will be influenced significantly by the morale of the remaining staff.

Staff who may be critical of the way change was handled and remain anxious about future job security are unlikely to display commitment, enthusiasm and initiative.

The primary objectives of schools in these circumstances should be to:-

- establish honest, clear two-way communications and give the most encouraging messages possible

- give all staff a full explanation of the situation and explain the policies and practices adopted with those made redundant or whose terms and conditions are changed

- demonstrate the necessity for change
- give an indication as to future employment prospects and possible changes in working arrangements
- handle the changes in a responsible, fair and effective way
- do everything possible to minimise redundancies and support those staff who lose their jobs
- provide a forward-looking, positive attitude for the future and show the staff the value of their role in that future
- where appropriate, arrange individual discussions with key staff to reassure them of their importance and employment prospects
- ensure that senior staff have, or develop the necessary personal skills and attitude to operate effectively during periods of change.

13. PAYMENTS

Staff who are made redundant **may** be entitled to one of the following payments: -

- a redundancy payment; or
- a redundancy payment plus premature retirement compensation;

In all cases, reference to continuous service includes service with other education and local authorities and certain other areas of public service covered by the Redundancy Payments Modification Order (see Section 13.7 above), where individuals have not previously received a redundancy payment.

13.1 Redundancy Payments

Staff are entitled to a redundancy payment if they have two years' continuous service on or before their last day of service. The redundancy payment is calculated as follows: -

- One and a half weeks' pay for every year of employment in which the employee was 41 years of age and over.
- One week's pay for every year in which the employee was aged 22 years and under 41 years.
- Half week's pay for every other year of employment from age 18 but under 22 years.
- 20 years' employment is the maximum period in respect of which a redundancy payment is payable.

In calculating redundancy payments, it was the Council's practice to use employee's actual weekly pay rather than applying the statutory cap for weekly pay as allowed for in

legislation. However, this practice stopped for support staff when the Employment Based Cost Review (EBCR) Collective Agreement was implemented on 1 April 2011.

This means that since 1 April 2011 all Community Schools / Pupil Referral Units (and those Academies, Voluntary Aided and Foundation schools who have formally adopted EBCR) use the following when calculating redundancy payments for support staff:

a) In cases of compulsory redundancy, by reducing by 50% the amount by which an employee's actual weekly pay exceeds the statutory cap - **For example**: if the statutory cap was £400 and an employee's actual weekly pay at £500, redundancy pay would be calculated on a revised weekly pay of £450.

b) In cases of voluntary redundancy, by reducing by 25% the amount by which an employee's actual weekly pay exceeds the statutory cap – **For example**: if the statutory cap was £400 and an employee's actual weekly pay at £500, redundancy pay would be calculated on a revised weekly pay of £475.

Please note that these revisions of weekly pay **do not apply to support staff in Academies, Voluntary Aided and Foundation schools who have not formally adopted the EBCR Collective Agreement** and therefore those establishments may continue to calculate a week's pay based on an employee's actual earnings, or some other calculation that they have reached a collective agreement upon.

Additionally, **teachers are not affected by the EBCR collective agreement and therefore the calculation of their weekly pay continues to be based on their actual earnings**.

The matrix for calculating the number of weeks of pay in individual cases is shown in Appendix 1.

13.2 Premature Retirement Benefits

Support Staff

Support staff who are 55 years of age or over on the date that redundancy takes effect may also be eligible for lump sum and annual compensation in addition to the redundancy payment. Further details on this and other times when you can retire can be found on the LGPS website here.

Teachers

Teachers who are 55 years of age or over (see qualifying criteria below) on the date that redundancy takes effect may also be eligible for lump sum and annual compensation in addition to the redundancy payment. Details of this are contained in the Chapter on Premature Retirement (Chapter 15 in the Schools HR Handbook).

The Normal Pension Age (NPA) for a teacher is dependant upon whether the member joined the scheme on or before 1 January 2007. Where a teacher was a member of the TPS before 1 January 2007 their NPA is 60. Where a teacher joined the scheme for the first time on or after 1 January 2007 their NPA is 65.

If a deferred member subsequently returned to service on or after 1 January 2007, they may come under transitional arrangements that preserve a NPA of 60. For guidance on this is available from the Teachers' Pensions website here.

Before age retirement benefits can be paid the member must cease all teaching employment. If a member ceases teaching employment at any time after NPA they become entitled to the payment of their retirement benefits and should claim them at that time.

Qualifying criteria for Redundancy/Efficiency related Pension Benefits for Teachers

An employee will be eligible for a retirement lump sum and an annual pension if (s)he meet the following criteria:

(a) is aged 55 years or over on the date the redundancy takes effect; and

(b) has two years' pensionable employment at any time after 5 April 1988; or

(c) has two years' pensionable employment at any time, if the teacher was in pensionable employment on 6 April 1988; or

(d) has five years' pensionable employment at any time; and

(e) applies for premature retirement, and

(f) the school/academy agrees to pay any mandatory compensation payments required by Teachers' Pensions.

Qualifying Criteria for Added Years enhancement for Teachers

An employee who meets the criteria for premature retirement **must satisfy the following criteria** in order for the Governing Body to **consider** awarding discretionary added years' enhancement:

(a) (s)he must be aged 55 years or over on date retirement takes effect; and

(b) have at least ten years' eligible service; and

(c) apply for premature retirement.

In addition, the award of discretionary Added Years for efficiency cases should only apply in the following circumstances:

i) To allow a replacement at the beginning of a school year of a teacher who reaches retirement age during the school year.

ii) Ill-health problems when an application for retirement on health grounds has been considered and refused, subject to the advice of the Council's Medical Adviser.

iii) Major changes to staffing structure leading to a reduction in the senior management structure or the replacement of a teacher at a substantially lower salary.

iv) Replacement of teacher on protected salary by a teacher receiving a significantly lower salary.

Calculation of discretionary Added Years enhancement

If the teacher satisfies the aforementioned criteria then, in cases of premature retirement on the grounds of Redundancy or Efficiency, an added years pension and lump sum **may be granted by the Governing Body**, based on a notional credited period of service which may not exceed the **shortest** of the following periods:

- a period equivalent in length to the aggregate of his/her service;
- a period which when added to his/her service does not exceed in aggregate 40 years. (This period may be restricted further in the case of staff who have been granted compensation for the loss of an earlier employment);
- a period up to the age of 65;

Please note – Added Years enhancement payments are met from the Schools budget. The School should therefore fully consider the ongoing financial commitment resulting from the award of any added years benefits **before** any offer is made to an individual.

14. RESPONSIBILITY FOR COSTS

Governing Bodies must consider the way in which they intend to fund any potential redundancies and ongoing pension costs before reaching a decision. They should liaise closely with their schools' finance officer throughout the process

In light of the current financial climate, the Children, Families and Learning department can no longer fund these costs, other than in exceptional circumstances.

Where the Governing Body of a maintained school think that they may be in a deficit budget situation they must seek the agreement of the Council to a "Licensed deficit budget". The Governing Body should contact the Council's Schools' Finance Team to discuss the school's situation and will have to demonstrate the business case and plan for achieving a balanced budget. Each request will be considered on a case by case basis.

15. CHANGES TO EXISTING CONTRACTS OF EMPLOYMENT

The requirement for statutory consultation has been extended to cover proposals which would lead to a change in the terms and conditions of existing staff, such as a reduction in hours or changes to existing working arrangements. The requirements would be the same as in the case of redundancies but in such cases Governing Bodies must make it clear explicitly that: -

- A redundancy situation does not exist; and

- If any dismissals take place as a result of consultation, redundancy payments would not be payable.

Schools will also need to consult with individual members of staff and seek their agreement to the proposed change. Any member of staff to whom the change would be unacceptable would have the right to make representations and to appeal to the appropriate committees of the Governing Body (see Section 8).

Governing Bodies are reminded that staff are entitled to receive statutory notice of changes to their contracts of employment once they have been agreed. This requirement can be critical to the timing of the changes, particularly in the case of the fixed notice dates for teachers, and longer serving staff whose statutory notice period could be as much as 12 weeks.

Governing Bodies should seek advice, at an early stage, from your HR provider on the processes for changing existing contracts of employment.

APPENDIX 1: REDUNDANCY PAYMENTS *Number of Weeks Pay*

	Continuous Service (Years)																		
Age	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20**
18[1]	1																		
19	1	1½																	
20	1	1½	2																
21	1	1½	2	2½															
22	1	1½	2	2½	3														
23	1½	2	2½	3	3½	4													
24	2	2½	3	3½	4	4½	5												
25	2	3	3½	4	4½	5	5½	6											
26	2	3	4	4½	5	5½	6	6½	7										
27	2	3	4	5	5½	6	6½	7	7½	8									
28	2	3	4	5	6	6½	7	7½	8	8½	9								
29	2	3	4	5	6	7	7½	8	8½	9	9½	10							
30	2	3	4	5	6	7	8	8½	9	9½	10	10½	11						
31	2	3	4	5	6	7	8	9	9½	10	10½	11	11½	12					
32	2	3	4	5	6	7	8	9	10	10½	11	11½	12	12½	13				
33	2	3	4	5	6	7	8	9	10	11	11½	12	12½	13	13½	14			
34	2	3	4	5	6	7	8	9	10	11	12	12½	13	13½	14	14½	15		
35	2	3	4	5	6	7	8	9	10	11	12	13	13½	14	14½	15	15½	16	
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

[1] It is possible that an individual could start to build up continuous service before age 16, but this is likely to be rare, and therefore the table starts from age 18.

Continuous Service (Years)																			
Age	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20**
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[2]	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	30

[2] The same figures should be used when calculating the redundancy payment for a person aged 61 and above.

APPENDIX 2: Frequently Asked Questions

Q **I know there are discussions taking place about the need to reduce staff. Will anyone ask me for my point of view?**

A Yes, both you and your representative will be consulted; these consultations should be genuine and meaningful. Consultation involves proper consideration of the responses of the group being consulted. Your headteacher will formulate proposals to present to the Governing Body and these will be discussed with you before being implemented.

Q **What is a 188 notice?**

A This is a consultation notice the Governing Body must send to trade unions when it is proposed to dismiss staff at the school for a reason not attributable to the employee (most commonly, redundancy). This is a legal requirement under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and the notice must include certain information. You should be informed by your Headteacher that this notice has been sent and should be given details of the proposals contained in it.

Q **Will I be able to do anything about the proposals in the 188 notice?**

A Yes. You will have the opportunity to make representations individually or through your trade union representative to the First Committee of the Governing Body.

Q **What is the First Committee?**

A Once proposals have been agreed by the Governing Body which may lead to the dismissal of staff for a reason not attributable to the employee (usually due to redundancy), the Governing Body must set up a First Committee of at least 3 governors to deal with the statutory procedures, except appeals, dealt with by another committee.

Q **Do I have to put my views in writing?**

A Not necessarily. You can talk to your trade union representative who will put your views forward for you, or you can attend the meeting of the First Committee to make your feelings known. You can also write to your trade union or the Chair of the First Committee at your school.

Q **When will I know if I am to be made redundant?**

A Once the First Committee have considered all the different points of view that have been put to them, they will make a final decision on the proposals and identify those members of staff to be dismissed as redundant. The First Committee will then write to you if you are one of those identified, to inform you of their decision.

Q **Is there anything I can do about the decision to make me redundant?**

A Yes there is. You can make representations against the decision to the First Committee. This can be done in writing or in person or through your trade union representative.

Q **What is the point of asking the First Committee to change the decision about making me redundant?**

A It is your legal entitlement to be able to do this. You are also able to make a further appeal against the decision to the Appeal Panel of the Governing Body. The Appeal Committee is made up of at least 3 governors who have not been involved in any of the decisions made by the First Committee and will, therefore, not be biased in any way when considering any points of view you put forward to them.

Q **How do I put my case to the Appeal Committee?**

A You can do this personally by writing to the Chair or by appearing before the Committee when it meets to hear your appeal. You can also ask your trade union or a colleague to help you with your appeal or to make the appeal on your behalf.

Q **So, I have made my appeal to the Appeal Committee - what happens next?**

A The Appeal Committee will let you know their decision. If your appeal is turned down, the Chair of Governors must tell the Authority who will then send you notice of your dismissal. Subject to the LA approving the redundancy payments

Q **What if another member of staff resigns from my school during the period I am under notice of redundancy. Does this give me a reprieve?**

A It depends on who that person is and what role they have in the running of the school. If you are a teaching assistant and a teacher resigns then that would make little difference to your future as it is likely the teacher would have to be replaced. If you were a classroom teacher and another teacher resigned, it might help your situation. The final decision would rest with the Headteacher based on the needs of the school and the degree of staffing flexibility.

Q **What about redeployment?**

A There are obligations upon an employer to seek alternative posts for staff who otherwise would have to be made redundant (See Chapter 14 of HR Handbook).

For Community and Voluntary Controlled Schools, as soon as a notice of redundancy letter is issued to you, you will be asked to complete a redeployment form and the Authority will then provide you with a password so that you can access the Council's re-deployment website and make efforts to seek redeployment. You are also expected to be vigilant in looking for vacancies/opportunities that arise.

.Q **Am I entitled to a redundancy payment?**

A You are, if you have 2 years' continuous service in local government or with an associated employer.

Q **How do I find out how much redundancy pay I am entitled to?**

A HR & OD will ask Liberata to calculate the estimate of your redundancy payment. This will be sent to you shortly after you are issued with your notice of redundancy (if it has not been sent to you earlier).

Q **When will I receive my redundancy pay?**

A Your redundancy payment will be made as soon as possible after your last day of service and usually within one month of leaving. A redundancy payment under £30,000 is non taxable.

Q **If I find another job can I keep my redundancy pay?**

A If you are offered and accept a job with Croydon Council or another local authority or associated employer within 4 weeks of being made redundant you will **not** be entitled to a redundancy payment but will retain your continuous service.