



REDUNDANCY POLICY AND PROCEDURE

1. INTRODUCTION

1.1 The Governing Body of Parley First School is committed to ensure that so far as possible the security of employment for its employees is maintained by careful planning.

1.2 It is recognised however, that there will be occasions when the changing needs of the school will necessitate staffing reductions e.g. reduction in pupil numbers, unexpected cuts in funding, change in curriculum needs.

1.3 Where this occurs, the Governing Body of Parley First School is committed to minimising the effect of redundancies through the provision of the measures set out in the following policy and procedure. This policy framework should be applied in conjunction with the wider redundancy toolkit for schools and the Redeployment Policy where appropriate.

1.4 The Governing Body of Parley First School will ensure that the redundancy process is handled in a fair, objective and sympathetic manner, consistent with ensuring that any hardship that may be suffered by the employees concerned is minimised as far as possible, but that the best outcome is also secured for the school in terms of the promotion of high standards.

2. SCOPE

2.1 This policy and procedure apply in full to all Parley First School employees (subject to the provisions outlined below), excepting those staff employed on a fixed term contract of less than 12 months duration and those with less than one year's service.

2.2 Where an individual has been appointed to a fixed term contract that was agreed for a specific purpose, without the nature of the role significantly changing or evolving since that time, the model redundancy procedure at **Appendix A** will apply.

2.3 The policy has been drawn up by the County Council following consultation with the recognised trade unions and teachers' professional associations and is

recommended to all school Governing Bodies for adoption (in the case of school federations, it is recommended to the federation's Governing Body).

2.4 This policy and procedure does not apply where the contract of one or more employees is to be transferred in accordance with the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006. The Governing Body of Parley First School will need to seek further advice from Human Resources in this regard.

2.5 The Local Authority will not accept liability for any actions, claims, losses or expenses arising out of a school's decision not to follow this recommended policy and procedure, where it is found that the school's Governing Body has acted in an unfair or discriminatory manner.

3. POLICY STATEMENT

3.1 The Governing Body of Parley First School will make every effort to avoid and/or mitigate the need for redundancies.

3.2 The Governing Body of Parley First School fully supports the principle of full consultation and will ensure that this is carried out from the earliest opportunity and throughout the period of any proposed redundancies, as required by legislation and in terms of employment best practice.

3.3 Where compulsory redundancies are unavoidable, the Governing Body of Parley First School will ensure that selection for redundancy is made on the basis of fair, objective and non-discriminatory principles.

3.4 The Governing Body of Parley First School will work in collaboration with the Local Authority in seeking to redeploy employees, wherever practicable, whose posts are identified as being at risk or declared redundant, in accordance with the Redeployment Policy.

3.5 If circumstances change at any point throughout the redundancy process, the Governing Body of Parley First School will notify the Local Authority, the affected staff and recognised trade unions/professional associations, as soon as is reasonably practicable.

4. GENERAL PRINCIPLES

4.1 Reasons for redundancy

4.1.1 Any redundancy is a dismissal in law. The legal definition of redundancy is set out at **Appendix B**.

4.1.2 Changes to staffing levels may be made by the Governing Body to meet financial targets, to achieve defined goals by the re-allocation of resources or to meet the curricular or other needs of the school.

4.1.3 Where such staffing changes result in a reduction or the elimination of the requirement for work of an employee or a group of employees undertaking the same or similar functions, then a redundancy situation exists within the School.

4.2 Mitigating the need for redundancies

4.2.1 The Governing Body of Parley First School will make every effort to avoid and/or mitigate the need for redundancies by careful planning to ensure the efficient deployment of the workforce in line with staffing structures, curriculum needs and the profile of the staff.

4.2.2 Planning should be carried out on an ongoing basis with the support of the officers from the LA to explore alternative staffing options to redundancy, at as early a stage as possible.

4.2.3 Options may include the following:

- natural wastage;
- reduction or elimination of overtime for support staff;
- reductions in hours where agreed;
- voluntary job share/part-time working;
- redeployment (see 4.4 below).

4.2.4 In circumstances in which a redundancy situation has been declared, the Governing Body of Parley First School will give serious consideration to placing a freeze on recruitment, or restricting the posts that are advertised. There should be no external recruitment to a post that could be reasonably occupied by an 'at risk' employee.

4.2.5 Further discussions on ways of avoiding compulsory redundancies should also take place with staff and their representatives as part of the consultation process.

4.3 Consultation

4.3.1 In all cases of redundancy, there is a legal obligation for full and thorough consultation to take place with relevant recognised trade unions/professional associations and all employees likely to be affected by the proposed measures, not just those who are likely to be dismissed. This also includes employees who may be on maternity leave or absent for medical reasons. The statutory requirements and timescales are set out in full at **Appendix C**.

4.3.2 The Governing Body will ensure that consultation is at an early enough stage to allow discussions as to whether the proposed redundancies are necessary at all.

4.3.3 Consultation should always be with a view of seeking to agree ways of avoiding any dismissals, reducing the numbers of employees to be dismissed and mitigating the consequences of any dismissal.

4.3.4 This therefore includes giving serious consideration on a case by case basis to any applications put forward from affected members of staff for voluntary retirement/redundancy.

4.3.5 Where the trade unions/professional associations make representations on the proposals, having due regard to the relevant statutory consultation timescales, there is a legal duty on the Governing Body to consider these proposals in full and respond accordingly.

4.4 Redeployment

4.4.1 The Governing Body of Parley First School will work in collaboration with the Local Authority in seeking to redeploy employees, wherever practicable, whose posts are identified as being at risk or declared redundant, in accordance with the Redeployment Policy.

4.4.2 The extent of the redeployment search for those employees, whose request for voluntary redundancy is accepted, will be determined by the Chair of Governors, as advised by Human Resources.

4.4.3 Rights to a redundancy payment could be affected by a refusal to accept any reasonable offer of suitable alternative work. Further information can be found in sections 5.8 and 5.9 of the Redeployment Policy.

4.5 Selection criteria

4.5.1 In circumstances in which compulsory redundancies are unavoidable, the Governing Body of Parley First School will ensure that selection for redundancy is made on the basis of objective, non-discriminatory principles and that the criteria are applied consistently.

4.5.2 The pool for selection and the selection criteria should be clear and understood by managers, employees and employee representatives. Every effort will be made to agree all selection criteria and weightings with the trade unions/professional associations.

4.5.3 The selection of the pool of employees at risk of redundancy should be based on the Parley First School's leadership and management, curriculum and financial needs.

4.5.4 Individuals from within the pool should be considered in terms of an analysis of their qualifications, experience (including particular expertise), skills and performance.

4.5.5 In very exceptional circumstances and only after the agreed criteria has not identified the requisite number of staff to be selected, the principle of LIFO (last in first out) may be considered, but only on the advice of HR so as to avoid any claims of unlawful discrimination.

4.5.6 Selection should be carried out in the light of an assessment of which employees in the pool are best able to make a continuing contribution to Parley First School, as set out in the School Improvement Plan and staffing structure.

4.6 Financial responsibility

4.6.1 Within the scope of the Education Act 2002 (staffing guidance, sections 35 and 36), Governing Bodies have the power to appoint and dismiss staff. This brings with it a degree of responsibility in respect of staff redundancies, to ensure that a fair and legal process is followed, the most cost-effective solution is reached and that the best outcome is secured for the Governing Body of Parley First School.

4.6.2 Section 37 of the Education Act 2002 provides for the costs of redundancy and severance payments to be met by the LA, unless there is a good reason to charge the costs to the school's delegated budget.

4.6.3 Where redundancy is subsequently the subject of an Employment Tribunal, the LA will contribute to all reasonable costs, provided the Governing Body of Parley First School has followed LA advice on the proper application of this procedure.

4.6.4 However, where this advice is neither requested or taken into account, all costs, including redundancy payments will normally be passed on to Parley First School's delegated budget.

4.6.5 This ~~also~~ includes circumstances in which the LA officers might challenge the decision of the Governing Body, if selection of staff for redundancy is not considered to be in accordance with the redundancy procedure or the costs to the LA are not proportionate to the outcomes achieved.

4.6.6 This also includes circumstances in which LA officers might challenge the decision of the Governing Body to uphold an employee's appeal that an alternative post offered as a means of avoiding redundancy is unsuitable where LA officers deem the post to be suitable.

4.6.7 The LA's aim will be to achieve the least cost option consistent with the needs of Parley First School and in such circumstances, the LA reserves the right to meet only the costs of the redundancies that it considers can be objectively justified.

4.7 Other organisational changes

4.7.1 There may be some circumstances when it is not appropriate to follow the full redundancy procedure in the first instance.

4.7.2 In cases of authority led school reorganisations/amalgamations, the Governing Body of Parley First School should follow the 'Procedure for Transfer of Staff' at the outset, although this may be a precursor to initiating the redundancy procedure at a later date.

4.7.3 In school led reorganisations of staffing structures, the Governing Body of Parley First School will adhere to the protocols as established by the Education (Review of Staffing Structure) (England) Regulations 2005. These place a statutory duty on schools to consult on any changes to staffing structures.

4.8 Written notice of dismissal

4.8.1 Support staff will receive the period of notice on full pay as specified in their contract, or notice equating to one week for each completed year of service up to a maximum of 12 weeks, whichever is the greater.

4.8.2 An employee on teachers' conditions of service who is made redundant will be given a minimum of two months' notice and in the summer term three months' notice, terminating at the end of a school term. This excludes headteachers who will be under a minimum of three months' notice and in the summer term four months, terminating at the end of a school term. However, where a teacher has been continuously employed for more than eight years, they will be entitled to receive additional notice, as specified in the Employment Rights Act 1996.

4.8.3 Under exceptional circumstances, pay in lieu of notice will be given where there is good reason for the employee not to work the notice period.

4.8.4 Notice of dismissal will be given in writing. The LA will issue dismissal notices for Community and Voluntary Controlled schools and the Governing Body in respect of Voluntary Aided and Foundation schools.

4.8.5 Employees under notice of dismissal may ask the Governing Body of Parley First School to allow them to leave their job early, before the expiry of their notice period. If agreed, the date of dismissal will be the date of expiry of the counter notice and not the date of the original notice from the school.

4.8.6 During the notice period, employees will be allowed reasonable paid time off during working hours to look for work, attend interviews or to arrange training.

4.8.7 Efforts to redeploy employees will also be undertaken for the duration of the notice period where appropriate in accordance with the Redeployment Policy.

4.9 Statutory Redundancy/compensation payments

4.9.1 To qualify for a statutory redundancy payment, employees must have two years' continuous Local Government service at the expiry of their notice period.

4.9.2 In calculating continuous Local Government Service, account will be taken of the Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999, as amended.

4.9.3 Redundancy payments will be paid in accordance with the statutory provision as follows, up to a maximum of 20 years service:

Up to aged 21 years	0.5 weeks' pay for each completed year of service
Aged 22 to 40 years	1 weeks' pay for each completed year of service
Aged 41 years upwards	1.5 weeks' pay for each completed year of service

4.9.4 The calculation of and entitlement to any redundancy/compensation payment will be made on the basis of an employee's actual weekly pay.

4.9.5 Where a member of staff is offered another job with an alternative associated employer (as covered by the Redundancy Payments Modification Order) before the termination of their employment and the job commences within 4 weeks of the date of dismissal, they will lose their right to a redundancy payment.

Compensation payments for Support Staff

4.9.6 The school/County Council has the discretion to pay an enhanced severance payment to all eligible employees under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006.

4.9.7 With effect from 1 April 2007, all redundancy compensation payments for staff employed under the Green Book terms and conditions of service will be calculated by applying a multiplier of 2.5 to the statutory minimum entitlements as set out at 4.9.3. So, for example, if an employee was entitled to ten weeks redundancy pay using the statutory formula, they would actually receive 25 weeks pay (2.5 x 10 weeks), at their actual weekly rate.

Compensation payments for Teaching Staff

4.9.8 The school/County Council has the discretion to pay an enhanced severance payment to all eligible employees under the Teachers (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 2006.

4.9.9 The existing compensation arrangements for teaching staff are set out at **Appendix D**.

4.10 Appeal process

4.10.1 An appeal can only be based on the grounds that selection for redundancy is unfair, the reason for dismissal is not redundancy or that an alternative post offered in accordance with the Redeployment Policy is unsuitable.

4.10.2 There is no right of appeal in respect of the reason for declaring redundancies or requesting redeployment, or a decision not to redeploy a potentially redundant employee. Staff who are aggrieved in respect of these matters are entitled to lodge a grievance in accordance with the School's Grievance Procedure.

4.11 Timescales

4.11.1 Indicative timescales for the redundancy process are set out at **appendix 2 in the redundancy toolkit**. This is to ensure that the redundancy process is handled in the most consistent and fair manner possible, whilst at the same time ensuring that statutory dismissal notices are issued within the required timescales.

5. ONGOING WORK WITH SCHOOLS

5.1 At the earliest opportunity possible and where it is considered that changes to staffing levels/composition may be needed within the school to meet specific targets in the future, the Governing Body/headteacher will work closely with LA officers (PSI, Finance and HR), to explore all possible options (see 4.2.2).

5.2 Where, following discussions with the relevant advisers, the headteacher still considers that there is no other alternative but to reduce staffing levels, a scoping discussion will be held between the headteacher and an hr officer, to map out the redundancy process and timescales involved.

6. REDUNDANCY PROCEDURE

Informal Communication and Consultation

Wherever possible, the Governing Body/headteacher will informally give notification to the trade unions/professional associations that reductions in staffing may be likely, as well as convene an informal meeting with potentially affected staff to alert them to the situation.

6.1 Step one - meeting of the school's Governing Body and appropriate advisors

6.1.1 A meeting of the school's Governing Body should be convened. The school's HR officer should be given prior notice of the meeting and be invited to attend, along with other LA officers as involved in earlier discussions (see 5.1 above). Their role

will be to provide professional input around the school's curriculum needs and the current and future financial situation.

6.1.2 Based on the evidence presented, and after considering appropriate advice, the Governing Body will decide whether or not to invoke the redundancy procedure.

6.1.3 If it is agreed that the procedure is to be followed, the proposed new structure shall be determined, based solely on organisational need and in line with the school improvement plan and curriculum requirements. Due regard will be given to minimising the impact on staff numbers at all times.

6.1.4 It would be appropriate for the headteacher to work on the revised structures in advance of the Governing Body meeting. However, if it is not possible for the Governing Body to determine all the relevant paperwork at the time that the redundancy procedure is invoked, a further meeting could be convened for this purpose.

6.1.5 The employee group(s) potentially affected by the proposals shall be identified, including any post(s), which might be excluded for consideration for redundancy. At this stage the Governing Body must not consider the respective merits of individuals, but instead focus on the continuing need for a particular post in the staff structure.

6.1.6 The Governing Body will establish the proposed selection criteria and weightings to be used, in line with the principles set out in section 4.5 of this policy. These will be set explicitly in a discrete document for consultation.

6.1.7 The timetable for the redundancy process and consultation meetings should be discussed and agreed, taking into account final dates for the issue of dismissal notices.

6.2 Step two – notification of need to reduce staffing establishment

6.2.1 Following the meeting outlined in step one of the procedure, the Chair of Governors should send a letter to the recognised trade unions/professional associations that sets out the statutory consultation requirements. The letter should also set out details of the Governing Body's decision, reasons leading to the determination of the need for a reduction in staffing and include the prospective timetable for implementing redundancies (**see appendices 1 and 2 in the redundancy toolkit**).

6.2.2 At this stage, depending on the date agreed for the staff consultation meeting and in line with the requisite timescales for notification, the letter inviting staff to a formal consultation meeting should also be sent out (**see appendix 8 in the redundancy toolkit**).

6.3 Step three – consultation meeting with trade unions

6.3.1 The Governing Body should provide sufficient information to those with whom it consults to allow full and meaningful consultation to take place in line with the principles set out in section 4.3 and **Appendix C** of the policy.

6.3.2 Following the meeting of the Governing Body at which the redundancy procedure was invoked, the recognised trade unions should be invited to a consultation meeting with the headteacher, Chair of Governors/other relevant

Governor(s) (on behalf of the Governing Body) to discuss the proposals. A HR officer should also be in attendance.

6.3.3 If a meeting is deemed necessary by either party, the headteacher will be responsible for disclosing information such as the school budget position, forecast pupil numbers and the staffing structure, with this information being sent to the trades unions in advance of the meeting (**see appendix 3 in the redundancy toolkit**).

6.3.4 Every effort will be made to agree the selection methods to be used, the selection criteria matrix and weighting factors and the skills audit/staff profile form with the trade unions (**see appendices 4, 5, 6 and 7 in the redundancy toolkit**). In circumstances where agreement cannot be reached, the Chair of Governors/other relevant Governor(s) will determine the criteria.

6.4 Step four – consultation meeting with staff

6.4.1 Allowing for sufficient timetabled time between the Step 3 meeting with the trade unions, the pool of affected staff should be informed of the situation at a formal consultation meeting convened by the headteacher. The relevant trade unions/professional associations and a HR officer should also be invited to attend and a copy of the redundancy policy be sent to all staff (**see appendix 8 in the redundancy toolkit**).

6.4.2 At this meeting, staff should be provided verbally with the same information already given to the trade unions (section 6.2.1), and reference also made to the skills audit/staff profile form.

6.4.3 Discussions during this meeting and throughout the consultation period should focus on ways of mitigating the need for redundancies. Where appropriate, the headteacher should offer the alternative options outlined in section 4.2.3 to all affected employees as part of the process and following the meeting, confirm these options and timescales for response in writing.

6.4.4 During the consultation meeting, the HR officer should make reference to the process for supporting staff whose posts are placed 'at risk' at the point at which redundancies are declared.

6.5 Step five – ongoing consultation period

6.5.1 Following the consultation meeting, the headteacher should send a confirmatory letter to all staff in the group(s) affected outlining the selection criteria for redundancy, together with the timetable for the consultation process (**see appendices 2, 4 and 9 in the redundancy toolkit**). The letter should also confirm the deadline by which staff should respond to the voluntary measures proposed, which could include voluntary retirement/redundancy.

6.5.2 As soon as possible after the general meeting, and confirmed within the letter, all affected employees should be offered the opportunity to have an individual meeting with the headteacher to comment on the proposals and ascertain their personal position. The employee has a right to be accompanied at the meeting by a friend, colleague or trade union representative (but not in the capacity of a practising lawyer) (**see appendix 9 in the redundancy toolkit**).

6.5.3 The content of any individual discussions should be recorded by the headteacher, with a copy given to the individual concerned and will, if considered appropriate and necessary, be included in the report to Staffing Committee.

6.5.4 The headteacher should inform all other staff within Parley First School that the redundancy procedure has been put into effect in the staff group(s) selected.

6.5.5 Implementation by voluntary means

6.5.6 Once the deadline for receipt of voluntary proposals has passed and in circumstances where the recognised trade unions/professional associations or employees have responded suggesting alternative methods of dealing with the situation, the Governing Body will give these voluntary measures full and proper consideration.

6.5.7 A meeting of the Governing Body/other relevant Governors (on behalf of the Governing Body) should be convened to consider the proposals in full, with LA officers as involved in earlier meetings, in attendance throughout.

6.5.8 The meeting should include discussion about the extent of the redeployment search for those who have expressed an interest in voluntary redundancy. A decision should be reached by the Governing Body with advice provided by HR.

6.5.9 If any of the voluntary proposals submitted and agreed by the Governing Body have potential cost implications for the LA, LA agreement must be sought immediately following the meeting, as delegated and determined by the Head of Human Resources (**see appendix 13 in the redundancy toolkit**).

6.5.10 Where LA approval is given and the reduction in staff can be achieved through voluntary means, the Governing Body of Parley First School should notify the Local Authority, the affected staff and recognised trade unions/professional associations without delay (**see appendix 14 in the redundancy toolkit**).

6.5.11 In cases where LA approval is not given, the Governing Body shall determine whether the costs can be met from the schools' delegated budget and staff and trade unions/professional informed of the outcome accordingly (**see appendices 14 and 15 in the redundancy toolkit**).

6.5.12 Response to consultation

6.5.13 Throughout the ongoing consultation period the headteacher (with the support of HR) will be responsible for drafting a response, or arranging a separate meeting with the trade unions/professional associations where necessary, giving full reasons for accepting, modifying or rejecting all the alternatives put forward (including voluntary measures), as determined by the Governing Body in 6.5.5.

6.5.14 Implementation by compulsory means

6.5.15 If towards the end of the consultation period, sufficient reductions have not been achieved through voluntary means and it becomes clear that compulsory redundancies may still be necessary, the relevant staff should be sent a copy of the skills audit/staff profile form, together with a copy of the selection criteria matrix and be asked to complete and return to the headteacher by an agreed date (**see appendices 4, 5, 6 and 7 and 10 in the redundancy toolkit**).

6.6 Step six – Report to the Staffing Committee

6.6.1 At the end of the consultation period, should selection for compulsory redundancies still be necessary, the headteacher should prepare a written report to the Staffing Committee. The report should set out full details of the process, including the initial Governing Body decision, outcome of the consultation process, possibilities for avoiding compulsory redundancies explored (including details of any approved/rejected volunteers) and the proposed redundancy selection criteria to be used (**see appendix 11 in the redundancy toolkit**).

6.6.2 The headteacher must write to all staff potentially affected no less than 10 working days before the staffing committee meeting, enclosing a copy of the report, advising them of the date of the meeting, their right to representation and the potential outcome. The letter should also be copied to the recognised trade unions/professional associations (**see appendix 12 in the redundancy toolkit**).

6.6.3 All relevant paperwork, including the completed skills audit/staff profile forms should be made available to members of the Staffing Committee in advance of the meeting.

6.7 Step seven – Meeting of the Staffing Committee

6.7.1 The school's hr officer should be in attendance throughout the entire meeting of the Staffing Committee, along with other LA officers as involved in earlier discussions about the financial status within Parley First School and impact on staffing levels and curriculum needs.

6.7.2 The Staffing Committee of the Governing Body will receive the headteacher's report on the reduction in staffing establishment in the presence of the individuals and their representatives.

6.7.3 All individuals potentially affected by the reductions in staffing will then be entitled to make representations in respect of the proposals either by themselves or by a trade union representative and the Staffing Committee will receive these oral or written representations on a collective or individual basis, as agreed.

6.7.4 Following receipt of collective or individual representations, the Staffing Committee will consider the report and any representations received and may resolve to accept the report un-amended, accept the report amended in the light of representations received, or to reject the report.

6.7.5 Selection for compulsory redundancy

6.7.6 Should the need for compulsory redundancies be accepted as part of the report and the Governors agree that all other options have been fully explored, the Staffing Committee will select the staff to be declared redundant in accordance with the principles set out at 4.5 and the selection criteria and weightings already discussed at 6.3.4.

6.7.7 When appropriate, either prior to or after selection, the HR officer will address the meeting to set out the LA's position on funding.

6.7.8 As part of the selection process, the Staffing Committee should use the agreed selection criteria to match the needs of the school against the affected

employees. The selection criteria matrix should be used for this purpose and to record any decisions (**see appendix 4 in the redundancy toolkit**).

6.7.9 In making their decisions, the Staffing Committee should consider the operational needs of Parley First School arising from future staffing plans, curriculum, pastoral, organisational and managerial needs and the skills, experience and particular expertise required to deliver these priorities.

6.7.10 Verbal notification of outcome to affected staff

6.7.11 The Staffing Committee members will meet individually with all potentially affected staff directly following the meeting to inform them of the decision (subject to financial approval being sought from the LA) and their right of appeal. This verbal decision will then be followed up in writing (**see appendix 14 in the redundancy toolkit**).

6.8 Step eight – authorisation and issue of formal written notice of dismissal

6.8.1 The LA will issue notice of dismissal to the staff selected by the Staffing Committee for redundancy in accordance with the relevant notice periods and within 14 days of receipt of the Governing Body's instruction as approved. The Governing Body will be responsible for issuing notices of dismissal for Foundation and Voluntary Aided schools (**see appendix 15 and 16 in the redundancy toolkit**).

6.8.2 The letter will inform staff of their right of appeal against selection for redundancy in accordance with section 4.10 of the redundancy policy. Appeals must be submitted within 10 working days of receipt of the notice of dismissal letter.

6.8.3 As soon as possible following the meeting, the Staffing Committee should officially notify the LA of the proposed redundancies and the Head of Human Resources, as delegated will authorise the payments in terms of the principles set out in 4.6 of the redundancy policy (**see appendix 13 in the redundancy toolkit**).

6.8.4 In the event that the school has not accepted the advice of the HR officer, as representing the LA, a full justification will need to be provided as part of the official notification.

6.8.5 The trade unions/professional associations should also be formally notified of the outcome of the Staffing Committee at this stage (**see appendix 14 in the redundancy toolkit**).

6.9 Step nine– consideration of redeployment

6.9.1 The school and Local Authority have a collective responsibility to support the principles of redeployment and work towards retaining the valuable skills and experience of staff within schools.

6.9.2 The school will ensure that, as part of seeking alternative employment, a review of any current or anticipated vacancies within the school will take place to assess whether there may be any suitable alternative positions available.

6.9.3 In accordance with the Redeployment Policy, at the point at which staff are issued with their notice of dismissal, a HR officer will work closely with the school and

the employee to seek suitable alternative employment within other schools and/or the Local Authority where agreed.

6.9.4 Further information can be found in the Redeployment Policy and Procedure.

6.10 Step ten – Meeting of the Appeal Committee

6.10.1 Where an appeal is lodged, the Governing Body should convene a meeting of an ¹Appeals Panel, giving staff 10 working days notice of the date of the meeting. A HR officer should be in attendance (**see appendix 17 in the redundancy toolkit**).

6.10.2 The Appeal Committee will consider the decision of the Staffing Committee and any supporting paperwork, against the employee's appeal.

6.10.3 The Appeal Committee should hear individual representations from the individual members of staff and their representatives. Any written submissions should be submitted 5 working days before the date of the hearing, for circulation to all parties.

6.10.4 The Appeal Committee will then consider the representations and may resolve to accept or dismiss the appeal.

6.10.5 The decision will be given orally to the member of staff at the conclusion of the meeting and confirmed in writing within 5 working days (**see appendix 18 in the redundancy toolkit**).

6.10.6 In circumstances where the appeal is upheld, the LA will make arrangements to retract the notice of dismissal. Timescales permitting, the Governing Body will need to decide whether to reconvene a meeting of the Staffing Committee under step seven of the procedure, to make further selections for redundancy.

6.10.7 The decision of the Appeal Committee will be final.

Policy Reviewed : Spring 2011

Next Review Due: Spring 2014

¹ The Appeal Panel will be made up of members of the Governing Body who have not been involved in the Staffing Committee decision at Stage 7 of the redundancy procedure or members who are impartial and where there will be no conflict of interest

PARLEY FIRST SCHOOL

**PROTOCOL AND PROCEDURE FOR THE USE OF
FIXED TERM CONTRACTS**

1. INTRODUCTION

1.1 The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 which came into force on 1 October 2002 are designed to ensure that fixed term employees are treated no less favourably than comparable permanent employees.

1.2 One of the additional aims of the regulations is to prevent the abuse of employees, arising from the use of successive fixed term contracts.

1.3 A fixed term contract is one that comes to an end upon a specified date, when a specific task has been completed, or when a specified event does or does not happen. A list of approved reasons for fixed term contracts is set out in the full fixed term contract protocol policy and toolkit.

1.4 When a fixed term contract comes to an end, this is viewed in law as a dismissal. Appropriate steps must be followed by the employer (as determined by the Dispute Resolutions Regulations 2004 which came into force on 1 October 2004) to ensure that the dismissal is fair.

1.5 Failure to follow the statutory procedure could lead to a claim of unfair and/or wrongful dismissal, subject to an individual's requisite qualifying service i.e. at least one year's continuous service.

1.6 In addition, the regulations state that if an employee has been continuously employed for a period of 4 years from 10 July 2002 and has been placed on two or more successive fixed term contracts, the contract will be treated as if it were permanent unless there is objective justification for the contract continuing on a fixed term basis.

1.7 In view of the increased legislation in this regard, the following protocol therefore provides a framework under which fixed term staff will be employed and supported by the school and sets out the obligations of the Governing Body to ensure that fixed term employees are treated fairly, in accordance with best practice and current employment legislation.

2. STATEMENT

2.1 The Governing Body of Parley First School recognises that on occasions, there will be a genuine need to engage staff on a fixed term contract, for example to cover a period of maternity or sick leave, or to fill a short-term vacancy while the post is advertised on a permanent basis.

2.2 In such circumstances, the Governing Body of Parley First School is committed to ensuring that the purpose of the post and the reason for it being offered on a fixed term basis is clearly understood and communicated from the outset of the recruitment process.

2.3 Fixed term contracts will not be used for ascertaining an individual's suitability for a post, as this would not be deemed to be a genuine fixed term contract. The relevant probation periods should be used where appropriate.

2.4 The Governing Body of Parley First School acknowledges that legislation now limits the total duration of successive fixed term contracts to four years and agrees to grant permanent status to an employee who has completed four years' continuous service on a fixed term contract (which would otherwise be renewed or extended) unless there is objective justification for the contract continuing on a fixed term basis.

2.5 The expiry and non-renewal of a fixed term contract is a dismissal in law and the appropriate procedure will be followed, as set out in sections 3.4. and 3.5/3.6 below.

3. PROTOCOL

3.1 Assessing the need for a fixed term contract

3.1.1 The Governing Body will determine whether a post should be appointed on a permanent or temporary/fixed term basis, depending on the specific requirements for the post.

3.1.2 It is essential that schools demonstrate that there are transparent, necessary and objective reasons for placing a post on a fixed term contract. Fixed term contracts should only be used for the reasons outlined in the full policy and toolkit. If a school wishes to advertise and appoint to a post falling outside the scope of the reasons listed, advice should be sought from an HR Officer.

3.2 Recruitment process

3.2.1 The Governing Body of Parley First School will provide clarity from the outset as to the purpose of the post, why it is being offered on a fixed term basis and the circumstances under which the contract is terminable.

3.2.2 In pursuance of the above, the Governing Body of Parley First School will ensure that full details of the fixed term contract are provided in the advert and job details sent to prospective applicants. A copy of the protocol will also be included in the job application pack.

3.2.3 Details as to why the post is being offered on a fixed term basis should be reaffirmed during the interview process and when the verbal offer of appointment is made.

3.2.4 All contracts of employment will confirm the full details of the fixed term nature of the appointment and will clarify the date on which the contract expires or specify the relevant notice periods, where applicable.

3.3 Ending the fixed term contract – reason for dismissal

3.3.1 As soon as it is proposed not to renew a fixed term contract when it expires, the headteacher in consultation with a Human Resources Officer as appropriate, will determine the reason for dismissal, and therefore which procedure will apply.

3.3.2 The majority of fixed term contracts are not renewed due to a reduction in

work of a particular kind, and therefore for reason of redundancy. In these cases, the procedure set out at 3.5 and 3.6 should be followed.

3.3.3 In cases of individuals whose contracts are ending for some other substantial reason (SOSR), the modified procedure as set out at 3.4 will apply. The following are examples of fixed term contract expiry and non renewals for SOSR:

- Providing cover for maternity/adoption leave
- Providing cover for sick leave
- Providing cover for a secondment
- Trainees employed on the GTP scheme, who are supernumerary to the school staffing structure

3.4 Ending the fixed term contract – some other substantial reason procedure

3.4.1 As soon as it proposed not to renew a fixed term contract when it expires, the headteacher should informally notify the individual of the situation and invite them, in writing, to a meeting to discuss the termination/non-renewal of the contract. The employee should be advised of their right to representation at the meeting. **(See Model Letter 1 in full toolkit)**

3.4.2 The meeting should be held with the headteacher to consider the reasons for the contract termination/non-renewal and to provide the opportunity for the individual to make representations.

3.4.3 Following the meeting, the individual will be notified verbally of the outcome by the headteacher and this will be followed up in writing.

3.4.4 Where it is decided that employment should terminate the letter will confirm the end of the contract, notice arrangements (where applicable) and the individual's right of appeal. **(see Model Letters 2, 3 or 4 as appropriate).**

3.4.5 In such circumstances that an individual exercises their right of appeal, the Governing Body should convene a meeting of an appeals panel, which will meet to consider the decision of the headteacher and any supporting paperwork, against the individual's appeal. The constitution of the appeals panel will be as set out in the Redundancy Policy and Procedure (see footnote at 6.10.1)

3.4.6 The individual has a right to be accompanied at this appeal meeting and will be advised of the outcome accordingly **(see Model Letters 5 and 6 in full toolkit).**

3.5 Ending the fixed term contract –defining the selection pool for Redundancy

3.5.1 As soon as it is proposed not to renew a fixed term contract when it expires, the Governing Body of Parley First School will decide whether the full redundancy procedure or the modified procedure outlined in section 3.6 should be followed.

3.5.2 In cases whereby a member of staff has held a number of different fixed term posts within the school over a substantial period of time, it may be appropriate for the selection pool to be widened out and the full redundancy procedure invoked. For example, a 1:1 TA who has worked with different children over the years and also undertaken general TA duties within the school. The pool will also need to be

widened out where the expiry date of the fixed term contract is approaching, but the actual work relating to the contract is still clearly required, even if there is a general need for reduction in work of that kind due to budget reductions/falling rolls. In this situation, ending the contract without going through a wider redundancy selection process is likely to be deemed to be unfair. This is because the reason for the non-renewal of the contract is not that the purpose has ended, but for another reason, namely that there is a general need for a reduction of work of a particular kind. Selection of an employee on a fixed term contract in these circumstances is contrary to the Fixed Term Workers Regulations.

3.5.3 However, in such circumstances that an individual has been appointed to a fixed term contract that was agreed for a specific purpose and the understandings and expectations around the end date were clear from the outset, without the nature of the role significantly changing or evolving since that time and the work of the post is genuinely ceasing at that time, the selection pool will be that one post.

3.5.4 In any event, schools are strongly advised to contact HR to discuss the specific circumstances of each case and to do this allowing sufficient time for either process to be followed (approximately 2 terms for the full redundancy procedure and 6-8 weeks for the modified procedure set out below).

3.6 Ending of fixed term contract – modified redundancy procedure

3.6.1 In consultation with HR, where the decision has been made to follow the modified procedure to propose the termination/non-renewal of a fixed term contract when it expires (as set out in 3.5.1 above), an individual consultation meeting with the headteacher should be arranged with the affected member of staff.

3.6.2 The individual should be given sufficient advance notification of the meeting and be advised of their right to be accompanied to the meeting. The meeting should include a discussion of the reason(s) for the proposed redundancy, the employee's personal situation and any alternative work within the school. The employee should be provided with the opportunity to ask questions about their personal position, and to present any alternatives as a way of mitigating the redundancy (**see Model Letter 7 in full toolkit**).

3.6.3 Following the individual consultation meeting, if a decision is made to proceed with the redundancy, a staffing committee meeting should be arranged to consider the circumstances of the fixed term contract coming to an end.

3.6.4 The headteacher should draft a report setting out the reasons for the proposal and write to the individual, enclosing a copy of the report, outlining why the school is considering the termination/non-renewal of the fixed term contract and inviting them to attend the meeting to discuss the matter further. The letter should also advise the individual of their right to representation (**see Model Letter 8 and Appendix A2 in full policy and toolkit**).

3.6.5 During the meeting, the contents of the headteacher's report will be discussed in full and the individual given the opportunity to state their case. In the event that the individual declines to attend the meeting, they should be advised to put this in writing to the Chair of Governors.

3.6.6 Following receipt of any individual representation, the staffing committee will need to consider the full facts of the situation and make a decision to accept the

report unamended, accept the report in the light of representations received, or to reject the report.

3.6.7 Following the meeting, the individual will be notified verbally of the outcome and this will be followed up in writing.

3.6.8 Where it is decided that employment should terminate the letter will confirm the end of the contract, notice arrangements (where applicable) and the individual's right of appeal. (**see Model Letter 9, 10 or 11 as appropriate in full toolkit**).

3.6.9 Where relevant (i.e. if a member of staff has two or more years' continuous service), financial approval will need to be obtained from the Local Authority and the Head of Human Resources, as delegated will authorise the redundancy payment.

3.6.10 At the point at which individual's are notified of the termination of their contract, an HR officer will work closely with the individual and the school to seek suitable alternative employment, in accordance with the school's Redeployment Policy.

3.6.11 In such circumstances that an individual exercises their right of appeal, the Governing Body should convene a meeting of an appeals panel, which will meet to consider the decision of the staffing committee and any supporting paperwork, against the individual's appeal. The constitution of the appeals panel will be as set out in the Redundancy Policy and Procedure (see footnote at 6.10.1).

3.6.12 The individual has a right to be accompanied at this appeal meeting and will be advised of the outcome accordingly (**see Model Letters 12 and 13 in full toolkit**).

Appendix B

Definition of redundancy

An employee who is dismissed shall be taken as dismissed for redundancy if it is attributable wholly or mainly to:

- The fact that the employer has ceased, or intends to cease, to carry on the business for the purposes for which the employee was employed, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed, or
- The fact that the requirement of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he was so employed, has ceased or diminished, or is expected to cease or diminish

(Section 139 (1) Employment Rights Act (ERA 1996))

Appendix C

Statutory consultation requirements

The duty to consult about potential redundancies with relevant recognised trade unions or elected employee representatives, where redundancies of a certain size are involved, is set out in s.188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR (C) A).

Employers must consult the recognised trade union/professional associations about employees likely to be affected by the proposed dismissals or by measures taken in connection with those proposed dismissals.

The information given to the trade unions/professional associations must be in writing and provide:

- the reason for the proposals;
- the numbers and descriptions of employees whom it is proposed to dismiss as redundant;
- the total number of employees of that description employed at the establishment;
- the proposed method for selecting employees for redundancy;
- the proposed method of carrying out the dismissal including the period over which the dismissals are to take effect;
- the proposed method of calculating the amount of any redundancy payments.

The statutory timetable for consultation should be regarded as a minimum, and is as follows:

- where it is proposed to dismiss as redundant between 20 and up to 99 employees at one establishment, consultation must begin at least 30 days before the first notice of dismissal is issued;
- where it is proposed to dismiss as redundant, 100 or more employees at one establishment, consultation must begin at least 90 days before the first notice of dismissal is issued.

Where it is proposed to dismiss as redundant between 1 and up to 20 posts, there is no statutory time-scale. The School will however consult for 30 days before any formal notice of dismissal is issued, taking care to ensure that the majority of the consultation period takes place within term time, wherever possible.

Parley First School will also need to notify the Secretary of State at the Department of Trade and Industry on form HR1 of proposed redundancies involving 20 or more employees at any one establishment in a 90 day period, before any notice of dismissal is issued. A copy of the form should also be given to the recognised Trade Unions.

Appendix D

Compensation Payments Policy Guidance (Teachers and other staff eligible to join the Teachers' Pension Scheme)

1. Introduction

- 1.1 The DFES has recently renewed the employers' discretion to award added years and the Teachers (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 2006, effective from 1 October 2006, now provides for a non-pensionable payment of up to 104 weeks pay on a discretionary basis, whilst retaining the added years provision.
- 1.2 DfES guidance is clear that whilst the facility to award added years is in itself not discriminatory the application as decided locally must be free from discrimination to meet the requirements of the Employment Equality (Age) Regulations 2006.
- 1.3 The County Council's current policy of a sliding scale based on service and commencing at age 50 is clearly directly discriminatory under the Employment Equality (Age) Regulations 2006. It is for this reason that it has been necessary to change the current arrangements.
- 1.4 It is important therefore to ensure that a clear policy is established which both clearly outlines the approach which the County Council will consider as good advice, and also the mechanism whereby application of the use of compensation payments can be determined.
- 1.5 As a result of the factors outlined above, a new policy for the application of compensation payments in these cases was agreed at the Cabinet meeting on 5 February 2007.

2. Compensation Payments in Redundancy Cases

- 2.1 In respect of all future redundancies, a compensation payment will be paid by way of a lump sum determined by applying a multiplier of 2.5 to the statutory redundancy payment. This will be the figure to be paid, in total, to the individual being made redundant. The statutory redundancy payments are set out below.
- 2.2 Statutory redundancy payments (up to a maximum of 20 years)
- | | |
|-----------------------|---|
| Up to aged 21 years | 0.5 weeks' pay for each completed year of service |
| Aged 22 to 40 years | 1 weeks' pay for each completed year of service |
| Aged 41 years upwards | 1.5 weeks' pay for each completed year of service |
- 2.3 For centrally employed teachers and school based teaching staff, reference should be made to the school's Redundancy and Redeployment Policy and Procedure for the detail as to how redundancy situations are dealt with, and the appropriate route for approval. No commitment must be given to any

employee where immediate pension benefits may result, until a formal decision has been made.

3. Retirement on the Grounds of the Efficiency of the Service

- 3.1 In some cases, it may be in the employer's interests to offer early retirement on the grounds of the efficiency of the service in order to facilitate organisational change. In all cases of proposed efficiency retirements, HR advice must be sought at the outset to ensure that the criteria for efficiency retirements are met and the appropriate channels for approval are followed (the outline criteria for school based teaching staff is set out at Appendix D1).
- 3.2 Retirement on the grounds of the efficiency of the service may be available to employees over the age of 55 and under the age of 65. It provides the facility for employees to retire early, with a pension based on their own pensionable service, but without an actuarial reduction. The cost/strain on the fund in respect of the early introduction of benefits is borne by the County Council in such cases.
- 3.3 In exceptional circumstances, subject to the specific prior agreement by the appropriate body, an additional one-off compensation payment may be approved to facilitate the retirement of an employee on the grounds of the efficiency of the service.
- 3.4 The Head of Human Resources and Exchequer Services must be consulted at a very early stage so as to assess whether any proposal to make a compensation payment can be justified both as to the circumstances of the case and without being discriminatory. Generally compensation payments will not be made in cases of early retirement on the grounds of efficiency, but where they are made they will be subject to certain qualifying criteria.
- 3.5 All cases require the prior approval of the relevant Director in consultation with the Head of Human Resources & Exchequer Services. There is no right of appeal in any matter relating to a proposed retirement on the grounds of efficiency. No commitment must be given to any employee where immediate pension benefits may result, until a formal decision has been made.

4. Retirement on the Compassionate Grounds

- 4.1 A teacher may be granted immediate pension benefits on compassionate grounds if they are aged 50 or over and do not have immediate access to a full occupational pension from any other source and there are, in the opinion of the Director, exceptional, compelling and complicating circumstances.

5. Summary

- 5.1 In all cases care must be taken to ensure that the circumstances surrounding each individual situation are carefully considered and that the Head of Human Resources & Exchequer Services is consulted at an early stage.
- 5.2 If there are any immediate queries reference should be made to the appropriate HR Manager who will ensure that advice and guidance is made available.

Retirement on the Grounds of the Efficiency of the Service

General Qualifying Criteria

Premature retirement on the grounds of efficiency will normally only be granted to teaching staff aged 55 years or over and on the grounds of school improvement only. Any teacher subject to the formal capability procedure is ineligible for consideration.

The principal factor that will be considered by the Director for Children's Services in respect of any recommendation or application to retire prematurely by reason of efficiency will be that of whole school improvement. This may be further categorised into Institutional Factors and Personal Factors, as follows.

Efficiency – School Improvement Factors

1. Institutional Factors

In determining whether to approve the premature retirement of a teacher, headteacher or deputy, particular consideration will be given where an OFSTED or pre-OFSTED report and/or a formal review and report by an LA appointed team identifies specific teaching or management weakness within the school. Particular consideration will be given to premature retirement where the report(s):

- (a) identify that overall pupil attainment within the school is being held back by the teaching practices within a given teaching area or subject area or that overall school improvement is being held back by management practices within the school;
- (b) confirm that it has been assessed independently of the school that the necessary improvement will not be met within the timeframe identified by means of further professional development;
- (c) confirm that it has been assessed independently of the school that it is not reasonable to initiate formal capability procedures; and
- (d) confirm the formal support of the Governing Body to the recommendation/application to retire prematurely.

2. Personal Factors

Although judgement by the Director will be led principally from an overall school improvement focus, as set out above, other factors will be considered by the Director on a case by case basis.

These other factors can relate to the personal circumstances of the teacher. That is to say where there is:

- (a) an increasing difficulty in maintaining or raising standards of teaching and learning;

- (b) an increasing difficulty in maintaining the necessary continuous professional development as a teacher or the necessary managerial and professional development required of a headteacher, deputy or other senior manager;
- (c) an increasing difficulty in keeping up to date with changes in the curriculum;
- (d) an increasing difficulty in making a full contribution to the school improvement agenda.