

OWLCOTES MULTI-ACADEMY TRUST

Managing Workforce Changes and Staff Reductions Policy



May 2020

Last reviewed: April 2022

About Owlcotes Multi-Academy Trust

OMAT is committed to the development of inclusive schools, sharing a common purpose to provide excellent education and improved outcomes for pupils.

OMAT strives to provide high-quality education for all children within our local communities by inspiring innovation, creativity and aspiration through an enriched curriculum.

OMAT is committed to the principles of co-operation, collaboration and sharing best practice with a strong focus on staff development.

OMAT is also committed to the preservation of the unique identity of all schools within the trust: each school will have a Local Governing Board (LGB) that is involved in decision making at school level, with autonomy to make decisions for its own school in line with the scheme of delegation.

All trustees and any schools joining must agree to share and uphold all of these principles now and in the future.

Managing Workforce Changes and Staff Reductions Policy and Procedure

1. Introduction

Changes in the way services are provided will sometimes lead to individual jobs, or a number of jobs, changing or no longer being required. Most commonly, these changes will be as a consequence of budgets being unable to sustain the existing staffing complement. At other times, it may be necessary to conduct a staffing re-structure or review in order to respond to the changing needs of the organisation.

2. Principles Underlying the Policy

This policy applies to all employees of Owlcotes Multi-Academy Trust and all those employed by schools within the Trust.

The purpose of this policy is to provide a framework for the process of reducing employee numbers wherever this may become necessary.

Ways to avoid compulsory redundancy will always be considered before this policy is enacted. If the decision to reduce employee numbers is unavoidable, Owlcotes Multi-Academy Trust and its schools will attempt to minimise the effect of redundancies through the framework set out in this policy.

Workforce Planning

The Trust will ensure that there is effective planning, financial management and resource allocation in place in the day to day and strategic management of all schools and our wider organisation. We will carry out regular staffing structure reviews to ensure our structure is fit for purpose, supports teaching & learning and the development of effective central services, and minimises surplus staff. Changes to staffing may be necessary for a variety of reasons, such as restructuring or remodelling the way support services are delivered, for instance. The responsibility for this is with the Owlcotes Multi-Academy Trust, and this responsibility can be delegated to a school within the Trust.

Where reference is made in this policy to the Owlcotes Multi-Academy Trust CEO, this term can extend to describe a member of the Owlcotes Trust Executive Leadership Team who would act on behalf of the CEO.

Fair & Equitable Treatment

Owlcotes Multi-Academy Trust is committed to ensuring that this policy does not discriminate directly or indirectly on grounds of race, colour, ethnic or national origin, religion or belief, gender, sexual orientation, marital status, pregnancy, disability, age, trade union membership and activity.

Communication & Consultation

Effective communication with staff is crucial in managing any workforce change. Where any changes proposed could result in redundancies, we will enter into consultation to provide the opportunity for all those concerned to discuss the problem and consider options. Where practical, informal consultation regarding any changes affecting staff will begin at the earliest opportunity, and will be in accordance with statutory requirements, where applicable.

Such informal consultation may consist of a staff meeting being convened in order to discuss issues that could lead to redundancies at a later date.

It is recognised that initial consultation is often a time of concern and worry for all interested parties, but especially for staff potentially affected by any proposals. Staff have the right to be consulted and represented, or accompanied by a trade union representative, colleague or friend (not acting in a legal capacity) at any stage of the process. Consultation is the provision of information which is clear and detailed enough to:

- Enable the Trade Unions to understand and consider the proposals;
- An invitation to them to discuss and comment on the proposals;
- A readiness to consider in good faith any comments or suggestions made before a formal decision is taken.

In the case of redundancy, there is a legal requirement that consultation must:

- Address ways of avoiding or reducing redundancies;
- Consider how to mitigate the effects of any redundancy dismissals;
- Be aimed at reaching agreement.

If it is proposed to make more than 20 employees redundant, the Owlcotes Board of Trustees are legally required to inform the Department of Works and Pensions.

There will be two main forms of consultation. These are as follows:

a) With Trade Unions

Consultation should take place with Trade Unions as appropriate. HR advisers will advise on arrangements for consultation with the recognised trade unions. Trade Unions recognised by the Owlcotes Multi-Academy Trust Joint Consultative Committee are listed below:

- National Association of Headteachers (NAHT),
- National Association of Schoolmasters Union of Women Teachers (NASUWT),
- National Education Union (NEU),
- UNISON,

- GMB.

b) With Staff

The Owlcotes Board of Trustees need to ensure that, in addition to the consultation with trade unions, there is full consultation with staff, both collectively and individually. It needs to be remembered that some staff are not members of a trade union but will have the same right to be fully consulted as those who are members.

Affected staff on secondment, sick leave, maternity leave and any other statutory leave will need to be included within any consultation process.

Definition of Redundancy

Under the Employment Rights Act 1996, redundancy arises when employees are dismissed because:

- The employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was so employed; or
- The employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed; or
- The requirements of the business for employees to carry out work of a particular kind has ceased or diminished or are expected to cease or diminish; or
- The requirements of the business for the employees to carry out work of a particular kind, in the place where they were so employed, has ceased or diminished or are expected to cease or diminish.

It is sometimes assumed that the problem can be resolved simply by not renewing one or more fixed term contracts. This is likely to be illegal, as staff on continuous temporary or fixed term contracts with the same employer for more than 12 months have the same rights to be made redundant fairly as other staff on permanent contracts. However, staff will only qualify for a redundancy payment after 2 years continuous service.

Procedure for Managing Staff Reductions

In the case of reductions in staffing and/or revisions to the staffing structure in schools, the Headteacher will notify the CEO as soon as possible after becoming aware that reductions in staffing and/or revisions to the staffing structure may be necessary. The Headteacher will be responsible for proposing a revised staffing structure, in collaboration with the CEO or CFO.

2.1 Owlcotes Multi-Academy Trust Board of Trustees Meeting

The purpose of this meeting will be to agree the need for staffing reductions through the Managing Staff Reductions (MSR) process, the areas that will be affected, to confirm the timetable and appoint the various committees required over the entire MSR process.

Identifying Staff Changes and/or Reductions

In the first instance, the CEO/Headteacher will identify the specific need and business reason for staffing changes within the Trust/school and will notify the Owlcotes Board of Trustees/school Local Governing Board of the intention to activate this policy.

Is Redundancy Necessary?

The Owlcotes Board of Trustees will discuss the need for staffing reductions and consider alternatives. The aim should be to avoid redundancy if at all possible. Alternatives could include:

- Making necessary savings elsewhere;
- A recruitment freeze;
- Offering part-time or job-share to existing full –time staff;
- Voluntary redeployment;
- Inviting applications for voluntary redundancy;
- Redeployment within the trust.

If the conclusion of this initial discussion is that there is no other feasible alternative but to continue with a staffing reduction, the MAT Board of Trustees will agree the job area(s) affected by MSR, and the number of employees within this area. The Board will ensure that ‘pools’ of employees at risk of redundancy are clear and that employees are allocated to a pool. This may be a pool of one employee.

The Board will consider whether any category of employee should be discontinued as that role is no longer required in the trust. If this is the case, all staff in this category will be at risk of redundancy.

The MAT Board of Trustees will give delegated authority to the Finance, Risk and Audit Sub-Committee of the Board of Trustees (FRAC) to carry out the MSR process, the development of the selection criteria (if applicable) and the assessment of individuals against these criteria, if applicable. The FRAC will identify the representatives on the MSR committee.

An Appeals Committee will also be identified at a full MAT Board of Trustees meeting. This committee will include three Trustees who have not been involved in the MSR process until the Appeal stage.

2.2 MSR Committee Meeting 1

During this meeting the selection criteria (if applicable) that will be used to nominate individuals for redundancy will be drafted. The detailed work maybe delegated to a representative of the CEO and Board of Trustees, and/or one of the nominated Trustees, if this is more practical, although the FRAC MSR Committee should be involved in reviewing the full draft selection criteria prior to consultation with staff and the unions.

The HR adviser will review the appropriateness of any ‘model’ selection criteria and will also agree the weighting of any selection criteria and ensure the criteria are fair, objective and not discriminatory in any way (directly or indirectly) before agreeing the adoption of the final version. Where the business case for MSR means that a specific role and only one member of staff could possibly be selected then there will be no need for the MSR committee to develop selection criteria.

2.3 Commencement of Formal Consultation Period

The Trust/school has a duty under the Trade Union and Labour Relations (Consolidation) Act 1992

(Amendment) Order 2013 – Section 188 Notices to meaningfully consult and issue formal notice to the recognised trade unions about any potential redundancy situation as well as informing employees in teams where posts are identified as being at risk.

Once the Owlcotes Multi-Academy Board of Trustees has confirmed the requirement to make a staffing reduction, staff affected will normally be issued with the 'Section 188 Letter'. Alternatively, should the information required for the Section 188 Letter be unavailable, a 'Statement of Intentions Letter' will be issued. This letter will notify affected staff as to the date of a consultation meeting. Under the policy, the consultation period will usually commence from the date of the consultation meeting and will include any agreed criteria for selection (if applicable).

Under this policy, there is a minimum **formal consultation period of 10 working days** with staff and recognised trade unions.

However, there is a specific legal requirement overriding this under certain circumstances. This applies where employers **propose to dismiss 20 or more employees**. In this situation, the employer must begin consultation:

- At least 30 days before the first dismissal takes effect if 20 to 99 employees are to be made redundant over a period of 90 days or less, and
- At least 90 days before the first dismissal takes effect if 100 or more employees are to be made redundant over a period of 90 days or less.
- A HR1 form should be submitted to the Redundancy Payment Service at the same time as the Section 188 letter.

Formal consultation will need to be prepared and must include the following information:

- The reasons for the proposal;
- The number and descriptions (i.e., teachers or officers or support staff) of employees it is proposed to dismiss on grounds of redundancy or who are at risk of redundancy;
- The total number of employees of that description in the school or Trust department;
- The proposed method of selecting the employees to be dismissed;
- The proposed method of carrying out the dismissals, including the period over which they are to take effect.

The information set out above must be sent to an authorised representative of the relevant trade union or sent by post to an address notified by the union.

The Owlcotes Board of Trustees will consider any representations made by the relevant trade unions and give reasons if any point is rejected. It should also comply with any reasonable request for further relevant information, e.g., budget details, pupil numbers, staffing numbers and structures. This information should be provided in writing.

The purpose of formal consultation is to share with employees and recognised trade unions proposals for change and associated procedures to allow either party the opportunity to give feedback and offer alternative solutions. Such proposals should be submitted to the CEO/ Headteacher for consideration.

Consultation Meeting

This meeting will be with affected staff and relevant trade union representatives. The purpose of the meeting will be to ensure that full consultation with staff is undertaken regarding the need for staffing reductions. This will include communication regarding the detail of the Section 188 letter that will be issued during this meeting and on the proposed selection criteria. The meeting also gives staff an opportunity to put forward suggestions as to how staffing reductions could be avoided and ask any further questions they may have in relation to the procedure.

A copy of this policy should be available at the meeting for each of the staff affected by the proposal. If applicable, the criteria on which the selection is to be made will also be available at the meeting. A key focus of the meeting will be an explanation of how the selection criteria will be applied and how the scoring will operate.

Trade Unions should contact the CEO, or nominated representative of the CEO, within 5 working days if they wish to meet with Trust leaders. Discussion with staff and unions at all stages of the consultation period can eliminate problems which may otherwise have arisen later in the process. If at any stage of the consultation there is any change to the information provided to the staff and Trade Unions that may affect the selection process, staff may be consulted once more.

Individual Consultation Meeting

As part of the consultation process, the opportunity for individual meetings will be made available for the member(s) of staff who face possible redundancy and their representative (if applicable and not acting in a legal capacity). The meeting will include the Headteacher and a Human Resources representative.

The purpose of this meeting would be:

- To explain the Section 188 letter;
- An opportunity for the staff member to raise any possible ways of avoiding any dismissals on the grounds of redundancy, of reducing the number of such dismissals, and / or mitigating the consequences of any dismissals;
- To ask any general questions that the staff member may have.

Absent Employees

All absent employees must be consulted and informed of the proposed changes on the same basis and to the same degree as all other employees. Employees who are on maternity leave and identified as at risk of redundancy will be offered suitable alternative employment where applicable. Any employee who is dismissed by reason of redundancy who is on maternity leave will not have to repay any occupation maternity pay up to the date that the dismissal takes effect.

2.4 MSR Committee Meeting 2

The CEO, CFO, or Headteacher and the MSR Committee will meet at this stage in order to consider alternatives to staffing reductions put forward by staff/unions during the consultation period, and to decide if the selection criteria need to be amended in the light of this feedback or the needs of the school.

During the meeting, a written response will be drafted for affected staff and trade unions. This will address the issues raised during the consultation period. This response will be approved by the Owlcotes Multi-Academy Trust prior to being issued.

Additionally, the nominations committee will confirm who will be responsible for completing individual score sheets against the selection criteria. Depending on the roles affected this could be the CEO, with input from other Trust leaders and/or Senior Officers or Headteachers for school-based staff. However, responsibility can be delegated to another member, although this decision must be justifiable to ensure each affected individual feels they have been treated fairly and consistently.

2.5 Trustees Meeting 2

This meeting will enable the MSR Committee to update Trustees on the progress of the process so far and to review feedback from the consultation period. Trustees will also be expected to agree the written response addressing issues raised during the consultation period. This will be communicated to the school's Local Governing Board, if appropriate. Once approved, this response will be issued to trade unions and affected staff.

Trustees, in collaboration with the relevant school's Local Governing Board (if appropriate), will also be responsible for the ratification of the final selection.

Where more than one employee is employed within an affected role, then a process of selection will be carried out using the selection criteria agreed.

Where only one employee is in an affected role, then sections 2.5, 2.6 and 2.7 may be unnecessary, although a review will take place of the consultation process that has been undertaken to ensure that there has been adequate consultation and responses to any issues raised.

2.6 Application of Selection Criteria (in instances where more than one employee is employed within an affected role)

It is the responsibility of the CEO, or her representative / School's Headteacher, to complete the individual score sheet and to be prepared to justify the scores made.

The staff member has the option to make their own, independent assessment against the individual score sheet, although this is not compulsory.

Whether the affected staff member opts to complete the individual score sheet or not, they will be offered a meeting with the CEO or her representative / Headteacher on a one-on-one basis (including a representative if desired). The purpose of this meeting will be to discuss the individual score sheet and ensure that all relevant experience and qualifications have been taken into account in reaching the final score.

It is not a compulsory requirement for the staff member to attend the meeting. If they choose not attend, the CEO/ or her representative /Headteacher should send his/her completed score sheet to the individual allowing a few days for comment.

The final score sheet will be completed by the CEO or her representative /Headteacher and they will indicate whether the staff member attended the meeting or not.

In exceptional circumstances, the CEO or her representative / Headteacher may decide to delegate the application of the selection criteria to a 'nominated person'. Whoever applies the selection criteria should ensure fairness and consistency throughout this process.

Once all the assessments have been completed, the final scores will be transferred onto a collective summary sheet or matrix for presentation to the next Nominations Committee meeting.

2.7 MSR Committee Meeting 3 (where more than one employee is in an affected role)

The CEO/ Headteacher and the MSR Committee will now meet to consider the whole redundancy process prior to proceeding to the next stage. A review of the application of the selection criteria will take place and the MSR committee may challenge the scoring of individuals against the selection criteria.

A review will also take place of the consultation process that has been undertaken to ensure that there has been adequate consultation and responses to any issues raised.

The MSR committee will evaluate the application of the selection criteria, confirm the nomination(s) of individuals for redundancy and conclude with a review of the fairness of the overall MSR process.

2.8 Notification of Selection to Nominated Staff

The MSR committee should arrange for any employee whom they have provisionally selected for redundancy to be informed in writing by the CEO/DCEO/Headteacher or the Chair of the Committee. This notification will invite the nominated staff member to attend a representation hearing in order to make representations in person to the Committee. These representations will need to be taken into account before the nominated staff member's selection is confirmed.

Seven working days' notice will be given in relation to the hearing date and the notification will outline the right of the staff member to be accompanied by their trade union or other representative (not acting in a legal capacity). Where requested a collective summary sheet / matrix showing the anonymous scores of all staff within a selection pool will be provided.

2.9 Representation Hearing

The CEO/ Headteacher (or nominated representative) will be in attendance at this meeting in addition to the associated HR representative. Their role in the hearing will be to give advice and information. The MSR committee will explain the reasons for the provisional selection and:

- Will allow the staff member or their representative to make representations;

- Clarify any points arising;
- Will give full consideration to its provisional decision.

After the hearing the MSR committee will either confirm the original decision or select another staff member for redundancy. In the latter case, that staff member will be informed and given the same opportunity to make representations.

If following the representation hearing the MSR committee confirm the original decision, the CEO/ Headteacher will put this in writing to the individual(s) affected, this letter will also advise the staff member of the right to appeal.

2.10 Issue of the Formal Notice Letter

Formal notice will be issued in accordance with the following timescales:

- i. Support Staff:
Statutory entitlement is for 1 weeks' notice per year of continuous service up to a maximum of 12 weeks (and subject to a minimum of 1 month for most school support staff);
- ii. Headteachers:
3 months' notice (4 months in the summer term) ending on 31 December, 30 April or 31 August as appropriate;
- iii. Other Teachers:
2 months' notice (3 months in the summer term) or statutory notice if that exceeds contractual notice – see (i) above - ending on 31 December, 30 April or 31 August as appropriate.

The search for alternative employment should begin once the employee has had confirmation of their nomination for redundancy and should continue throughout the notice period.

2.11 Appeal against Selection for Redundancy

Staff members have the right to appeal against a decision to select them for redundancy. If they do wish to exercise that right they must notify the CEO/CFO/Headteacher, in writing, within 5 working days of the date of the confirmation of Nomination for Redundancy (post representation hearing). This letter will ideally briefly state the grounds of the appeal. The CEO or Headteacher will subsequently make the arrangements for the appeal to be heard. Once again, the staff member has the right to be accompanied by a trade union representative, colleague or friend (not acting in a legal capacity).

The appeal will be heard by the Appeals Committee consisting of three Trustees not involved in the original decision. This committee will focus on careful and objective examination of how the FRAC MSR committee applied the criteria.

Should the appeal be successful, the Appeals Committee will consider whether to select another employee for redundancy, in which case the process of selection, opportunity for representation, notification of redundancy, notice to terminate and right of appeal will be repeated.

Whether the appeal has been successful or unsuccessful the staff member will be notified of the outcome in writing.

2.12 Redeployment

The Owlcotes Board of Trustees, in consultation with the school's Local Governing Body (if applicable), will consider whether alternative employment is available at the relevant school, or within the Owlcotes Central Team, for an employee who is made compulsorily redundant. There is no requirement to create a job specifically for this purpose, or to offer a job which does exist but for which the employee is objectively unsuitable. However, the employee must be fully considered for any appropriate vacancy.

3. Miscellaneous

3.1 Time off Work

An employee who is given notice of dismissal on grounds of redundancy and who has at least 2 years continuous service by the end of the notice period has a legal right to reasonable time off with pay during working hours to seek new employment or to arrange retraining. What is 'reasonable' depends on the circumstances of the particular case. Employees are required to request time off through the typical LOA request procedure.

3.2 Redundancy Payments

Employees nominated for redundancy will receive from Owlcotes Multi-Academy Trust an estimate of their redundancy payment plus an estimate of any pension benefits they might be entitled to. Employees with two or more years' service will be entitled to a statutory redundancy payment. The period of continuous service will be calculated with reference to the Employment Rights Act and the Redundancy Modification Order. The Trust's redundancy payments are calculated using the following formula:

- 0.5 week's pay for each full year of service where age during year is less than 22.
- 1 week's pay for each full year of service where age during year is 22 or above, but less than 41.
- 1.5 week's pay for each full year of service where age during year is 41+.

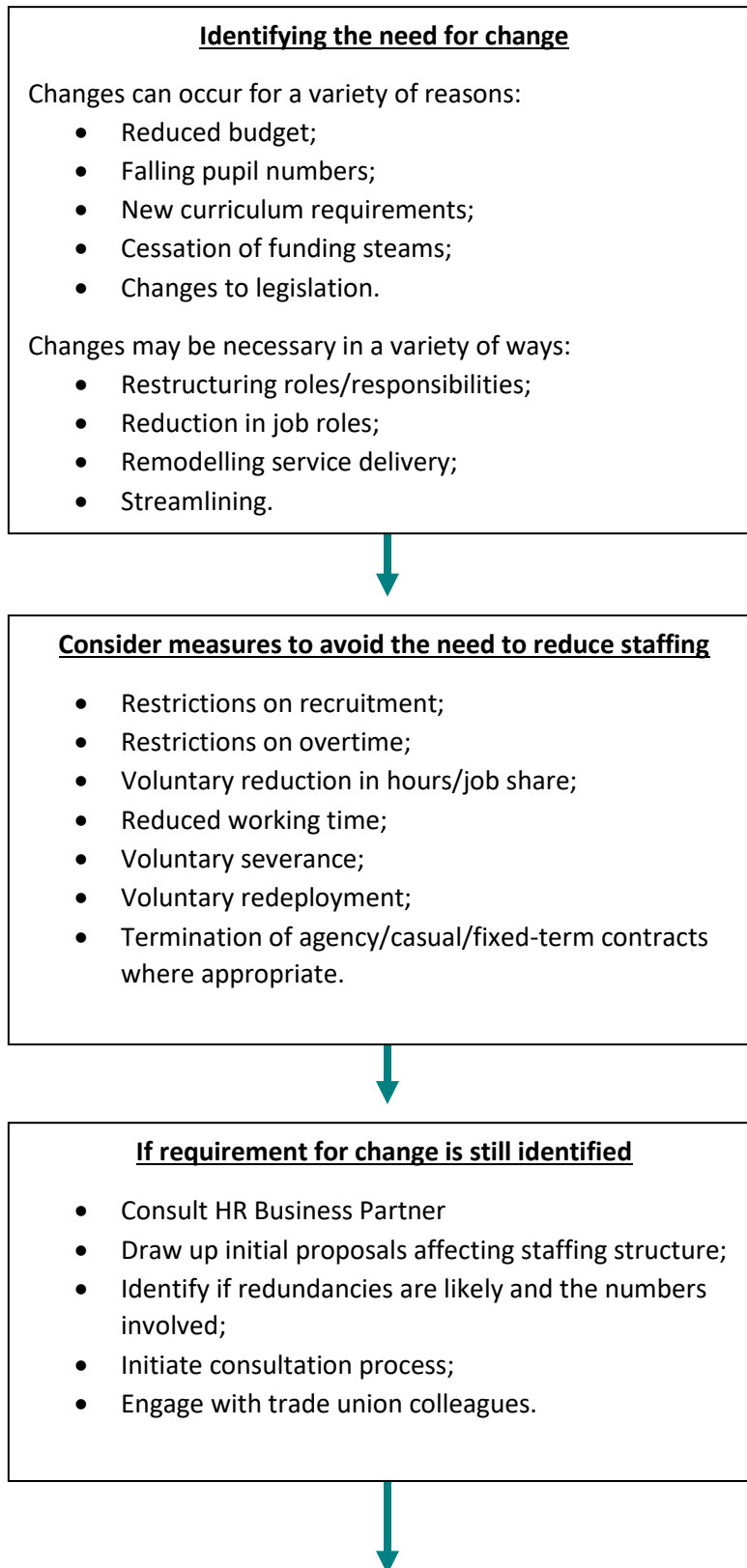
The amount of this payment will be confirmed when the employee is selected for redundancy, and the sum will be paid along with the employee's final salary payment in lieu of notice.

Where a redundant employee is offered a new job on different terms and conditions, but which is deemed to be suitable alternative employment, and unreasonably refuses to accept it, there is no right to a redundancy payment. However, in such cases the employee has a statutory right to a trial period of 4 weeks in the job during which to assess suitability.

If the new job requires the employee to be retrained, a longer trial may be agreed in writing in advance. If, after a trial period, the employee refuses to accept an offer of alternative employment, it may be possible to allow an extended trial period or to seek another redeployment opportunity. Alternatively, a redundancy payment would be made if the job is unsuitable or the employee's refusal to accept it is reasonable.

Appendix 1 - Managing Workforce Change and Staff Reductions Guidance

Forecasting and managing change is integral to successful medium and long-term planning



<u>Consultation</u>	<u>Implementation</u>	<u>Selection for redundancy</u>
<p>A collective redundancy situation arises where an employer <u>proposes to dismiss, by reason of redundancy, 20 or more employees</u> at one establishment within any period of 90 days or less.</p>	<p><u>Slotting process</u></p> <p>This is where a job role remains substantially unchanged or comparable and there are no more people than posts. The grade may be higher or lower and has been agreed as a reasonable redeployment opportunity.</p>	<p><u>Unplaced employees</u></p> <p>Employee is notified of provisional selection for redundancy and invited to a meeting where they may make representation against the decision for management to consider.</p>
<p><u>Timescales of consultation period</u></p> <ul style="list-style-type: none"> • 20 – 99 employees: 30 days • 100+ employees: 45 days • Less than 20 – 10 working days. 	<p><u>Ring fence recruitment process</u></p> <p>Where there are more people than posts, employees will go through a selection process as agreed during the consultation.</p>	<p><u>Notification</u></p> <p>Following the meeting, the outcome will be confirmed in writing and, where selection for redundancy is confirmed, the employee will be served their contractual notice.</p>
<p><u>Preparing for consultation</u></p> <ul style="list-style-type: none"> • Issue formal notice to trade unions (section 118 notice) • Inform employees identified as being at risk 	<p><u>Notification</u></p> <p>Employees will be notified of the outcome in writing and, where they have been successful in securing a position, a new contract will be issued.</p>	<p><u>Employees selected for redundancy</u></p> <p>They will be given the right of appeal against the decision. Redeployment opportunities will be sought across the Trust. Employees will be supported with a reasonable amount of time off for training/interviews. Consideration will be given to whether vacant posts are suitable alternatives.</p>
<p><u>During consultation</u></p> <ul style="list-style-type: none"> • Share the proposals for change • Consider alternative communication with absent staff • Notify of procedure/process • Welcome feedback/alternative solutions • Hold further meetings, briefings, one to ones 		

**This Managing Workforce Changes and Staff Reductions Policy was adopted
by Owlcotes Multi Academy Trust on 24/04/2020**

Chair of Trustees: Mrs Judith Norfolk		
Signature:		Judith Norfolk
Frequency of review:	3 years	
To be reviewed by:	FRAC	
To be approved by:	OMAT Full Board	
Date of next review:	April 2025	

REVIEW RECORD

Date of review	Reason for review	Date of next review
April 2022	Agreed review schedule.	April 2025

Name:		Signature:	
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on behalf of OMAT Full Board

Date of review	Reason for review	Date of next review

Name:			
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on behalf of OMAT Full Board

Date of review	Reason for review	Date of next review

Name:		Signature:	
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on behalf of OMAT Full Board