

# REDUNDANCY POLICY

## POLICY STATEMENT

It is the College's policy to aim to provide security of employment through its planning of staffing needs and thus avoid making compulsory redundancies amongst its employees wherever possible. In the unfortunate event of having to make employees redundant the College will act as sensitively as possible, will consult fully with staff and will act in accordance with all relevant legislation and will at all stages ensure fair and transparent processes prevail.

The redundancy policy is intended to ensure that all redundancy dismissals are made with due regard to legislative requirements, in the best interests of the College and through a fair and transparent process to minimise any distress and hardship to those involved.

## PROCEDURES:

### 1 DEFINITION OF REDUNDANCY

Redundancy is defined under Section 139(1) Employment Rights Act 1996:

"where the requirements of the business for employees to carry out work of a particular kind have ceased or diminished or are expected to cease or diminish".

Or:

"where the requirements of the business for the employees to carry out work of a particular kind in the place where they were so employed have ceased or diminished or are expected to cease or diminish".

Or:

"where the employer has ceased, or intend to cease, to carry on the business for the purposes of which the employee was employed".

Or:

"where the employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed at the place where s/he was so employed".

### 2 THE PRINCIPLES

The principles that this policy and procedure is based on can be summarised as follows

- a fair and equitable process will be adopted for implementing organisational change
- a detailed restructure proposal will be developed, including a fair and objective selection process and criteria for redundancy
- Consultation with employees and recognised trade unions will take place at the earliest opportunity, with feedback fully taken into consideration
- The Colleges will seek to retain skilled employees based upon business need and their suitability for future needs of the students and the East Kent Colleges Group
- The Colleges will seek to minimise disruption to services and anxiety for employees where possible

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- The East Kent College Group will be fully compliant with current legislation

### **3 AVOIDING REDUNDANCIES**

The College will endeavour to avoid compulsory redundancies wherever possible. Measures for avoiding compulsory redundancies will include a mixture of the following as deemed to be appropriate:

- natural wastage
- reducing or eliminating where possible, the use of staff employed via agencies
- seeking volunteers for early retirement and/or voluntary redundancy
- redeployment and, if possible, retraining to other parts of the organisation
- reduction or elimination of overtime working
- restrictions on recruitment
- considering volunteers for part-time and/or term time working
- short time working
- considering suggestions from trade unions/employees
- trying to make savings in other areas.

### **4 DISCLOSURE AND CONSULTATION**

4.1 When proposing to put 20 or more employees at risk of redundancy at any one establishment within 90 days, the College will follow the 'Collective consultation' rules as advised by ACAS.

The following steps will be followed:

1. The Corporation will notify the Redundancy Payments Service (RPS) before a consultation starts. The deadline depends on the number of proposed redundancies.
2. Consult with trade union representatives or elected employee representatives - or with staff directly if there are none.
3. Provide information to representatives or staff about the planned redundancies, giving representatives or staff enough time to consider them.
4. Respond to any requests for further information.
5. Give any affected staff termination notices showing the agreed leaving date.
6. Issue redundancy notices once the consultation is complete.

4.2 Certain information must be disclosed in writing to the appropriate representatives – regardless of the number of staff placed at risk; the following information concerning proposals for redundancies to allow a constructive role within the consultation process:

- (a) the reason for the proposals
- (b) The numbers and role descriptions of the employees it is proposed to dismiss as redundant
- (c) The total number of employees of any such description employed at the establishment in question
- (d) The way in which employees will be selected for redundancy
- (e) How the dismissals are to be carried out, taking account of any agreed procedure, including the period over which the dismissals are to take effect
- (f) The method of calculating the amount of redundancy payments to be made to those who are dismissed

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- (g) Agency workers: the number of agency workers, where they are working and the type of work they are doing

Consultation will begin with staff affected and the wider staff body in the affected College, as soon as redundancies are contemplated. This will include informing both trade unions, appropriate representatives and employees that redundancies are possible and seeking their views on the means to avoid, reduce or mitigate the number and consequences of the redundancies. Due regard will be given to the ACAS guidance on Redundancy Handling throughout the process.

#### 4.3 Determining the Area(s) in which the Redundancies will Occur

Management will take into consideration the views expressed by its employees and the trade unions but the decision as to where to make redundancies must ultimately rest with the College.

### 5 REVIEW AND FINAL DECISION TO PROCEED

5.1 During the consultation and upon closure of the consultation, the lead manager will review all the feedback and conduct a review with the help of HR in relation to the original proposals. The decision on how to proceed will be shared with unions, staff affected and then the wider staff body.

5.2 Affected staff will be informed of next steps, including the process to opt for redundancy or posts available and the selection process to be used.

5.3 Staff previously employed by Canterbury and Sheppey Colleges before 1<sup>st</sup> August 2017, who remain on a Canterbury contract should also refer to the Canterbury College Redeployment Policy.

### 6 THE PROCEDURE TO BE FOLLOWED IN SELECTING FOR REDUNDANCY

Where a need for redundancies has been identified, where appropriate a ring fence will be established around the pool of employees from which redundancies will be made.

- (a) Wherever possible compulsory redundancies will be avoided by offering voluntary redundancy. On occasions, due to financial or time constraints, the seeking of volunteers may not be a viable option open to management

Consideration of applications must take into account the needs of the service and volunteers who are not essential for the continued running will receive priority consideration. Management reserve the right to reject volunteers if service delivery will suffer. A detailed explanation of the reasons for any requests being declined will be given to employees by management.

- (b) Should a new role be created, if this role is 80% or more like the old role, the employee in the old role will be assimilated, if there are sufficient posts available

Any roles less than 60% the same will be available for any at risk, ring fenced employees to apply for.

- (c) Selection according to merit will be the next stage of the process. A person specification will be devised for each remaining post. The selection criteria for redundancy will be devised to ensure that those employees who best meet the future needs of the organisation are retained.

The selection criteria may include some or all of the following, but the list is not exhaustive:

- Qualifications/training
- Experience (gained in a formal or informal setting)
- Skills/knowledge/aptitudes
- Productivity
- Attendance record

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- Disciplinary record
- Performance (work)
- Skills / competence
- Others e.g. (i) possession of a driving licence, subject to the provisions of the Equality Act, 2010.

In some cases management may wish to weight the criteria to reflect their relative importance to the future requirements of the posts that will remain.

When attendance records are to be used College management will carefully assess the reasons for and extent of absences. Absences relating to pregnancy, maternity and disability will be discounted. Any absences agreed by College management e.g. unpaid leave, dependents leave, compassionate leave, paternity, maternity, shared parental and adoption leave etc. will also be discounted.

Where both disciplinary record and attendance are being taken into account, care will be taken not to penalise an employee by "double counting" i.e., a disciplinary warning for absence would be an example of "double counting".

Where performance is a criterion, assessments will be undertaken by at least two people who are able properly to assess the individual to ensure objectivity. Written evidence will be provided against each of the criteria.

- (e) The approach outlined above will not normally be appropriate in the case of employees employed under fixed term contracts. It will not usually be practicable to trawl this group of employees for volunteers and there will be no need to apply selection criteria if all the contracts in question are coming to an end e.g., at the end of a project.

An employee must not be selected for redundancy if the principal reason for the selection is because they are a fixed-term employee.

## **7 THE SELECTION PROCESS**

6.1 Details of the person specification and the criteria to be used in the selection process, together with any weightings to be applied will be distributed to employees in the area(s) where redundancies are to be made before the selection process takes place.

6.2 In all cases where the criteria are to be applied, at least one manager and a representative from HR will be involved in the process in order to ensure objectivity.

## **8 ISSUING OF NOTICE**

If notice of dismissal by reason of redundancy is given, the employee's contractual or statutory period of notice (whichever the greater) will apply. Minimum statutory periods of notice are:

- one week's notice if the employee's continuous service is less than 2 years;
- one week's notice for each year of continuous employment where the employee has 2 or more years service, but less than 12 years; and
- not less than 12 weeks notice if the employee has 12 or more years service.

### **8.1 Eligibility and value of a redundancy payment**

Under s.155 ERA, an employee must have at least two years' continuous service with the employer in order to qualify for a redundancy payment.

### **8.2 The Modification Order**

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The effect of the Modification Order is that continuous service with bodies on the Order will also count.

Section 162 ERA provides that a redundancy payment will be calculated on the basis of the period of continuous employment with bodies on the Modification Order.

In both cases the usual rules of continuity apply so that if there is a break of more than one week (running from Sunday to Saturday) between two contracts continuity will be broken (except where there is a redundancy and a new job is taken up within 4 weeks – see below).

### **8.3 Where a new job is offered by another Modification Order Body.**

If an employee who is under notice of redundancy receives an offer of a job from another Modification Order body before the termination of his or her employment and takes it up within 4 weeks of the end of the old employment, there will be no dismissal for redundancy payment purposes.

If an employee does take on a new job with a Modification Order body in these circumstances the provisions relating to a trial period in the ERA will apply. Therefore, if the employee decides not to continue with the job during the first 4 weeks he or she will be able to terminate the contract (whether with or without notice) and receive a redundancy payment from the old employer.

## **9. APPEAL**

All employees will have the right to appeal against dismissal for redundancy and to exercise this right must write to the Head of HR within 10 working days stating their grounds for appeal.

The appeal panel will be made up of two members of the Executive team. In the event of two members of the Executive team not being able to reside on the appeal Panel then Governors will join the panel (not to include student or staff Governors).

The panel shall meet as soon as possible but at least five working days notice will be given to the employee.

Employees who appeal will have the right to be accompanied at the hearing by a trade union representative or College workplace colleague and to call any witnesses or submit statements from witnesses as appropriate.

The Head of HR will support the Appeal Committee and maintain a record of the proceedings.

Appeals lodged outside the 10 day time limit will only be heard in exceptional circumstances and any such requests should be put in writing to the Head of HR stating, in full, the reasons for appealing out of time. A panel will be made up of two members of the Executive team to consider the request. In the event of two members of the Executive team not being able to reside on the appeal Panel then Governors will join the panel (not to include student or staff Governors).

Should the dismissal have taken effect when the employee appeals, the dismissal will stand and the appeal will be made and heard as an ex-employee.

## **10 REDEPLOYMENT AND THE RIGHT TO TIME OFF TO SEEK OTHER EMPLOYMENT**

The College will fulfil its statutory obligation to consider employees who are identified as redundant for alternative employment within the College. If suitable vacancies are available redundant individuals will be considered for them. Individuals who are not appointed will be given an explanation of the reasons. Please see 5.3 regarding the Canterbury and Sheppey Redeployment Policy for further details regarding redeployment.

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Employees under notice of redundancy will be given reasonable time off to seek alternative employment, careers guidance and the services of the staff counsellor. This should be agreed with the appropriate line manager in advance.

Displaced employees who turn down reasonable offers of suitable alternative posts may not be eligible for a redundancy payment.

This Policy may be revised and amended following consultation with staff and should not be read in isolation, but cross-referenced with all relevant employment guidance.

## **11 SUPPORT**

11.1 The College will provide support for staff at risk both during consultation and during notice periods:

Training for staff at risk in CV writing and Interview skills and reasonable time off for interviews by prior agreement with line managers. Access to the College counsellor will also be made available.

11.2 Support for staff successful in remaining in College employment:

An employee who is offered an alternative job which is different to the old one, is entitled to a statutory right to a trial period of 4 weeks, to allow the College and the employee time to assess if the job is in fact suitable. This can be extended for training purposes by an agreement in writing, specifying the date on which the trial ends. In such cases, a probation period would not generally apply. Redundancy payment will not apply if the employee unreasonably refuses a suitable alternative role. This trial period allows the employee and employer an opportunity to decide whether the new job is suitable and does not necessarily mean the employee loses the right to redundancy payment. However, working beyond the three month trial period deems the new employment is accepted by both parties and any redundancy entitlement is lost.