



Managing Organisational Change Policy & Procedure

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| Prepared by: | Director of HR, WHMAT |
| Applies to: | All eligible WHMAT employees |
| Approved by: | Board of Trustees on 15.03.2018 after consultation with staff and city-wide trade unions |
| Issued to MAT Academies for use: | 19.03.2018 |
| Annual review date: | 12 months from ratification by Board of Directors |
| Links to: | WHMAT Managing Organisational Change Toolkit/Equality Policy |
| Version: | 05.03.2018 |

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Contents

| | |
|---|-----------|
| 1. Purpose | 3 |
| 2. Scope | 4 |
| 3. Definitions | 4 |
| 4. Pre-consultation steps | 5 |
| 5. Restructures | 6 |
| 6. Redundancies | 9 |
| 7. Collective Consultation (more than 20 redundancies) | 11 |
| 8. Voluntary Redundancies and Voluntary Early Retirement | 12 |
| 9. Compulsory Redundancies | 12 |
| 10. Dismissal meeting | 13 |
| 11. Appeals | 15 |
| 12. Suitable alternative employment | 16 |
| 13. Pay Protection | 18 |
| 14. Modification Order | 19 |
| 15. Policy Review | 19 |
| Appendix 1- Restructures with redundancies or other detrimental impact | 20 |
| Appendix 2-Restructures without redundancies or detrimental impact | 21 |

1.0 Purpose

- 1.1 This Policy sets out how Washwood Heath Multi Academy Trust (WHMAT) will manage Organisational Change (OC).
- 1.2 OC should be regarded as necessary and inevitable as WHMAT evolves and adapts to its environment and continually strives to improve the provision of education for its pupils. Circumstances will arise (for example driven by budgetary constraints, falling pupil numbers, changes imposed by government, rising employment costs and changes to the national funding formula), which necessitate OC within some or all of WHMAT's academies.
- 1.3 The purpose of this document is therefore to provide WHMAT with a framework for managing OC that complies with employment law and good HR practice.
- 1.4 The policy will typically apply in the following circumstances of OC, although the list is not exhaustive:
- 1.4.1 Reorganisation of the way in which work is carried out in a staffing structure and/or other structural change(s) such as regrading of posts, significant changes to job descriptions (known as "restructuring");
 - 1.4.2 Redundancy (see legal definition at 3.1.3);
 - 1.4.3 Making changes to employees' contractual terms and conditions of employment;
 - 1.4.4 Relocation of sites and/or site closures within WHMAT.
 - 1.4.5 Reviews of ways of working and internal processes, where there is an impact on employees.
- 1.5 The aims of this policy are that:
- 1.5.1 Change is managed effectively by managers, with adequate and appropriate consultation with staff and unions taking place at the earliest opportunity to ensure that the reason for change is clear and understood, and with communication continuing throughout the period of change;
 - 1.5.2 All change is managed in a fair, inclusive, consistent and sensitive manner, with due consideration being given to issues of equality and diversity;
 - 1.5.3 All affected employees are consulted about OC and encouraged to participate fully in the process (including those on maternity, paternity, adoption, parental leave, secondment, or sickness absence);
 - 1.5.4 Managers, directors and/or board trustees leading on OC will support employees who are under notice of redundancy, or who are displaced as a result of proposed restructure, to seek suitable alternative employment, both internally and externally and will take a considered approach to recruitment, and reasonable time off for interviews during these times;

- 1.5.5 Compulsory redundancies will be avoided or minimised wherever possible, and that employees identified as being “at risk” of redundancy have access to appropriate support during the change, for example, confidential 24-hour telephone counselling via WHMAT’s Employee Assistance Programme (EAP).

2.0 Scope

- 2.1 This policy applies to all WHMAT employees, whether full-time or part-time. It does not apply to self-employed contractors, consultants or to agency workers.
- 2.2 The policy will be used when an academy within WHMAT is proposing to make OC (see examples at 1.4 above). However, the length of consultation and formal stages required under this policy will vary depending on the complexity of the proposals and whether the changes are positive i.e. the re-grading of posts leading to promotion opportunities or the creation of new posts in a structure, or negative, i.e. changes which may lead employees to suffer a detriment (such as a reduction in pay, demotion, and/or loss of job (otherwise known as redundancy)).
- 2.3 It does not form part of an employee’s contract of employment, and WHMAT reserves the right to amend this Policy at any time subject to consultation.
- 2.4 Restructure consultations started under this policy will continue under this policy unless there are exceptional circumstances.

3.0 Definitions

- 3.1 In this policy:
- 3.1.1 ‘Organisational Change’ is the process of reviewing and modifying staffing structures or business processes in order to meet changing business needs and may or may not include redundancies (see examples at 1.4);
- 3.1.2 ‘Employee’ means a member of staff who is employed by a WHMAT academy under a contract of employment, whether permanent or temporary, full-time or part-time.
- 3.1.3 ‘Redundancy’ is when an employee is dismissed wholly or mainly because:
- 3.1.3.1 WHMAT or an academy within WHMAT has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him/her (“business redundancy” e.g. whole business needing to close); and/or
- 3.1.3.2 WHMAT or an academy within WHMAT has ceased or intends to cease, to carry on that business in the place where the employee was employed (“place of work redundancy” e.g. 1 WHMAT site needing to close); and/or
- 3.1.3.3 WHMAT or an academy within WHMAT no longer requires an employee or employees to carry out work of a particular kind or the need for them to carry

out that work has ceased or diminished, or is expected to cease or to diminish. In
this context 'ceased' or 'diminished' could mean on a temporary or permanent basis,
for whatever cause ("employee redundancy" e.g. reduction in need of modern
foreign language teachers due to falling pupil numbers); and/or

3.1.3.4 In addition, "bumping" or "transferred redundancy" can occur where an
employee whose job is not redundant, volunteers for redundancy and is then
dismissed or "bumped" out of their job by another employee. This means that
the bumped employee is the one who is actually made redundant. This could
occur if an employee whose job is not redundant volunteers for redundancy and
another employee, who might otherwise be redundant, has the suitable skills
and experience to be moved to that job.

3.1.4 Further useful definitions related to OC are in the toolkit.

4.0 Pre-consultation steps

4.1 If OC proposals may lead to employees being displaced (e.g. having to take on a new role within WHMAT that is at a lower grade or pay), or at risk of redundancy, the CEO/Head of Academy (or other appropriate manager) should take the following steps **before** consultation starts:

- a) Ensure that this policy is ratified by the Board of Trustees (the Board);
- b) Prepare a written business case setting out the proposals for changing the staffing structure, together with rationale, benefits to the academy or WHMAT and likely costings and impact on employees. This should be accompanied by a) existing staffing structure; b) proposed staffing structure; c) job descriptions and person specifications (if new posts are being created or existing posts are being amended or regraded); d) implementation plan setting out proposed timescales and actions from moving from the current structure to the new structure; and e) any relevant supporting documentation (such as budgetary information, pupil intake numbers, and section 188 Notice and Form HR1 **if more than 20 redundancies are being proposed across WHMAT within a 90 day period;**
- c) Share a copy of the business case and supporting documents with the CEO/WHMAT HR & WHMAT Finance for information purposes who will risk assess prior to any consultation with WHMAT employees or trade union colleagues starting;
- d) Discuss the approved business case with the Chair of Trustees (or vice chair) for information purposes. To ensure that the OC process is not compromised, the full Board of Trustees should not discuss the proposals in detail at this stage;
- e) Nominate a committee of 3 Board Trustees plus a reserve to support with the OC proposals or add the remit to an existing committee as appropriate (known as the OC Committee). Suggested terms of reference for the OC Committee are in the toolkit;

- f) Nominate a separate appeals committee of 3 independent Board Trustees plus a reserve to sit on any appeals panel as appropriate. Members of the OC Committee should not also be members of the appeals committee and vice versa (see further at 11.1);
- g) Prepare an Equality Impact Assessment with support from HR as appropriate, to ensure that the OC proposals do not discriminate against employees with particular protected characteristics as defined in the *Equality Act 2010*. Further guidance and a suggested template appear in the toolkit;
- h) If redundancies are proposed, details of affected employees should be provided to HR when the business case has been prepared so that redundancy estimates can be calculated early on and discussed with the CEO/Head of Academy and Director of Finance as appropriate. This supports the premise that dismissal on the basis of compulsory redundancy will always be seen as a last resort and that voluntary redundancy should always be considered before compulsory redundancy;
- i) Managers proposing to dismiss support staff between the ages of 55 and over should contact pensions in good time to establish the amount of any pension strain that could become payable by the base academy if such employees are dismissed on redundancy grounds. **Such costs will be payable by the base academy**, so will require forward planning and completion of an early retirement on redundancy form for HR Operations (see toolkit).

5.0 Restructures

- 5.1 To ensure that any staffing restructure is managed in a structured and consistent manner the Head of Academy (CEO for head office restructures) will produce a business case with the support of HR to include:
- a) what the change(s) are and the number and type of roles which are likely to be affected (with a copy or copies of existing and new staffing structures);
 - b) the drivers and rationale for the change(s);
 - c) the financial implications of the changes for the academy undergoing the restructure;
 - d) any measures already taken by the academy to avoid the structural change(s);
 - e) information about changes to job roles and job descriptions, where relevant;
 - f) how affected employees will be appointed to the roles within the revised structure (including details of ring-fencing/assimilation as appropriate);
 - g) how the change process will be managed (including timescales for consultation and implementation i.e. getting from the existing structure to the new structure);
 - h) an outline of support that will be offered to affected employees during the change process e.g. access to Employee Assistance Programme (EAP) via Perkbox

- i) confirmation of whether any redundancies are proposed, including numbers, roles affected, proposed selection criteria and selection pools.

5.2 The length and nature of consultation will vary depending on the nature of the proposals (see below).

Positive restructures (see flowchart at appendix 2)

5.3 Where a WHMAT academy is proposing to make straightforward and/or non-contentious changes to its staffing structure i.e. an increase in the number of posts, increases in salary grades, re-grading of posts leading to promotion opportunities, consultation will be with staff and internal trade unions.

5.4 The Head of Academy or appropriate manager should ensure that a copy of the business case and appendices is shared with all employees likely to be directly affected in a group meeting. The consultation period will be reasonable. Employees should be invited to meet with the Head of Academy or another appropriate manager individually during the consultation period to discuss any ideas or suggestions that they may have, but this is optional for the employee(s). Details of the proposals should also be supplied to all absent staff who are directly affected.

5.5 Following the consultation period, the Head of Academy or appropriate manager should feedback any comments or suggestions made by staff and/or unions to the CEO & WHMAT HR and decide if the original business case requires amendments as a result. It is important that the business case accurately reflects the next steps and potential impact on employees.

5.6 Subject to consultation, the new structure should be implemented in line with the stages set out in the business case.

Proposals which may have a negative impact on employees

5.7 If the proposals are contentious or may have a negative impact on employees, e.g. decreasing salary, re-grading some posts in a team but not others, reducing or increasing working hours, deleting a post or posts from the structure, removing TLRs (this list is not exhaustive), the following steps are recommended after the pre-consultation steps at 4.1 above have been followed:

- a) Email a copy of final approved confidential business case and appendices to all city wide unions for information purposes.
- b) Head of Academy or appropriate manager should ensure that a copy of the business case is shared with all employees likely to be directly affected by the proposals in a group meeting. Employees should also be given the opportunity to meet with the Head of Academy or another appropriate manager individually during the consultation period to discuss any ideas or suggestions that they may have, although this is not obligatory for the employee(s). The purpose of early written notification is to allow suitable time for information sharing, dialogue and appropriate consultation, including that between Trade Unions and their members.

- c) Following the 30-day consultation period, the Head of Academy or appropriate manager should feedback any comments or suggestions made by employees and/or unions to the CEO and HR, who will decide if the original business case requires amendments as a result. It is important that the business case accurately reflects the next steps and potential impact on staff. HR will ensure that a statement is issued to all staff, copied to the Trade Unions, confirming the outcome of consultation and whether the proposal(s) are going ahead or not.
- d) Subject to c) above, the new structure should be implemented in line with the stages set out in the business case and ensuring that principles of “assimilation/slotting-in” and “ring-fencing” are followed as appropriate (for definitions and guidance see toolkit).
- e) As part of the implementation process, the Head of Academy or appropriate manager should ensure that all staff are notified in writing of changes to terms and conditions of employment. If a teacher’s salary is varied as per the *School Teachers’ Pay and Conditions Document*, salary safeguarding may apply to teaching and learning responsibility payments (TLRs) for a period of up to 3 years (see toolkit). Support Staff salary protection will be for 6 months from the date that the new structure is implemented. WHMAT HR will notify HR in good time of any contractual changes so that overpayments etc. can be minimised.
- f) If during the consultation, it has not been possible to agree contractual variations which meet WHMAT’s needs on a voluntary basis with employees, WHMAT may need to carry out a “dismissal and re-engagement” process (see toolkit). Details of how this will be carried out should be included in the business case.
- g) Once the process of appointment to the roles in the revised structure has been completed, those employees who have not secured a role and who are therefore displaced or at risk of redundancy, will be notified by the Head of Academy (or other appropriate manager) that they are at risk of redundancy. Those employees will be written to individually with confirmation of the next steps in the process, including timescales, details of selection pools and selection criteria. If a redundancy estimate has not been previously provided to the employee during the consultation process, it will be included with this letter, unless there are exceptional circumstances (see further below). Voluntary redundancy will always be considered before compulsory redundancies are made.

6.0 Redundancies

Alternative action

- 6.1 WHMAT will consider taking other action to avoid redundancies and will minimise them wherever possible. Examples of alternative approaches we may consider taking include reducing overtime, inviting applications for voluntary redundancy (see 8 below), natural wastage, limiting new recruitment, reviewing how we use consultants, self-employed contractors and agency

staff, considering flexible working opportunities such as job shares and/or offering suitable alternative work for employees who are at risk. This list is not exhaustive.

How we make redundancies - consultation

- 6.2 WHMAT will comply with any legal obligations to consult with recognised trade unions depending on the number of redundancies we are proposing to make within specified timescales. We recognise that consultation is the meaningful sharing of information about the OC and, in particular, any proposed redundancies. The aim is to take into account feedback and comments from employees and trade unions (including alternatives to the proposals if viable), and to consider ways of reducing the impact of any negative restructure proposals (including redundancies). Consultation is also crucial in maximising employee engagement and motivation during the change.

Our legal obligations - consultation

- 6.3 When contemplating OC, WHMAT does not have a legal obligation to consult with recognised trade unions if the proposal is to make less than 20 redundancies within one WHMAT academy or, more than one academy, within a period of 90 days or less. Collective consultation requirements are only triggered if more than 20 redundancies are proposed within a 90-day-period. Although legally, there is no fixed length of consultation required for less than 20 redundancies, WHMAT will allow 30 calendar days, subject to holidays and budgetary pressures and will still carry out reasonable consultation with trade union colleagues (see below at 6.4).

Key Steps

- 6.4 If the Head of Academy or appropriate manager has been authorised by the CEO & Director of HR to open consultation with employees, they will:
- 6.4.1 email the unions at city level and local WHMAT academy union representatives and provide them with a copy of the business case and supporting appendices for information purposes. This will include an invitation to attend a consultation meeting to discuss the proposals (see toolkit). Unions are encouraged to support their members at individual consultation meetings (see below).
 - 6.4.2 hold a meeting with the unions to discuss the proposals, ideally this should take place on the same day that a group meeting is held with all directly affected staff to open the 30 calendar day consultation period (a suggested script appears in toolkit. A copy of the business case should be shared with the employee during the meeting and the proposals explained. The employee should be invited to request further 1-2-1 consultation meetings with the Head of Academy during the consultation period, to answer questions and share ideas, although this is not obligatory for the employee. During the individual consultation meeting, employees should be informed about:
 - 6.4.2.1 The proposals for change, including rationale and possible impact on them individually;

- 6.4.2.2 The proposed criteria for the selection process and/or methods of selection (competency based interview, skills audit and/or selection matrix);
 - 6.4.2.3 The amount of redundancy payment that the employee would be eligible to receive in the event that their redundancy was confirmed. Affected staff should be invited to express an interest in voluntary redundancy by the end of the 30-day consultation period, so that this can be considered by the appropriate committee **before** any compulsory redundancy selections take place;
 - 6.4.2.4 Any potential suitable alternative employment that may be available in their base academy or WHMAT;
 - 6.4.2.5 Listening to any concerns that they may have about the process (or any other relevant matters);
 - 6.4.2.6 Their rights to take reasonable time off for training, interviews, updating CVs etc. during the consultation period.
- 6.5 Although WHMAT is not legally required to consult with employees as a group in small-scale redundancy situations, it is good practice to hold a whole school meeting after the group meeting and 1-2-1s with directly affected staff have taken place. This ensures that all staff are briefed about proposed changes, understand the rationale for change and have an opportunity to share views and/or suggestions about the proposals. It can also encourage bumped redundancies (see definition at 3.1.3.4). A template script appears in the toolkit. It is advisable to keep a register of staff in attendance, so that staff who are absent due to maternity, paternity, adoption, sickness and/or secondment etc. can be consulted with separately. A suggested letter for absent staff appears in the toolkit.
- 6.6 Following the 30-day consultation period, the Head of Academy or appropriate manager should feedback any comments or suggestions made by staff and/or unions to the OC committee and decide if the original business case requires amendments as a result. It is important that the business case accurately reflects the next steps and potential impact on staff. If the business case is revised as a result of consultation, unions and affected staff will be kept updated.

How we make redundancies – selection pools

- 6.7 When a potential redundancy situation arises, WHMAT will carefully and objectively identify the group from which employees will be selected for redundancy, i.e. those in the “selection pool”. Wherever possible, trade union colleagues will be consulted on this via the business case or once the selection pool has been determined. Employees in the selection pool will be notified of their inclusion at the earliest possible time, together with the rationale for the selection of this group.

How we make redundancies – selection criteria

- 6.8 WHMAT will be fair, objective and transparent with the selection criteria that we use to identify employees at risk of redundancy. Our key aim will be to ensure that we retain the types of skills necessary to meet our current and future business needs.

- 6.9 The criteria we use to select employees for the pool will depend on the specific circumstances, but are likely to include some or all of the following: a) levels of performance, where this can be measured objectively; b) experience and skills; c) disciplinary record and/or d) attendance record. However, we will never discriminate on the grounds of any protected characteristic within the Equality Act 2010 and pregnancy and disability-related absence will not be considered (see further guidance in template selection matrix in toolkit).

7.0 Collective Consultation (more than 20 redundancies)

- 7.1 If more than 20 redundancy dismissals are proposed within WHMAT within a 90-day-period, collective consultation with recognised trade unions must take place in good time before the proposals take effect (at least 30 days before the first dismissal takes effect if 20-99 are being made redundant at one establishment over 90 days or less and at least 45 days before the first dismissal takes effect if 100 or more redundancies are proposed):
- 7.2 If the Head of Academy or appropriate manager has been authorised by its OC Committee to open consultation with employees and trade unions, they shall email the unions at city level and provide them with a copy of the business case and supporting appendices (to include a section 188 Notice and Form HR1 for notification to Insolvency Service). The Unions will be invited to a consultation meeting during working hours to discuss the business case and appendices.
- 7.3 If the proposal is to make between 20 and 99 employees redundant within a period of 90 days or less, the meeting with unions will trigger a 30-day consultation period, which should exclude the summer holiday period (a consultation period of at least 45 days will be needed if the proposal is to make 100 or more employees redundant at one establishment within 90 days or less). Suggested wording appears in the toolkit. This meeting will be chaired by the Head, with support from HR as necessary. It must begin in good time i.e. at least 30 or 45 days before the first redundancy dismissal takes effect, and be meaningful i.e. look at ways of avoiding compulsory redundancies and require managers to listen carefully to affected staff and genuinely consider their suggestions, even if these are not accepted.
- 7.4 Following the consultation meeting with unions, the Head of Academy or other appropriate manager shall meet with directly affected staff on a one-to-one basis. The purpose of the meeting will be to share a copy of the proposals, explain why there is a potential redundancy situation and how they may be impacted. It should be made clear that they are at the start of the consultation period and encourage them to come forward with any suggestions that they may have as to how redundancies might be avoided or reduced during this period. Staff should be invited to meet with the Head of Academy again during the consultation period, with or without their chosen work place colleague or trade union representative, if this would be helpful. A copy of this procedure should be provided to each employee and a brief note kept of the meeting. The Head of Academy should also invite expressions of interest in voluntary redundancy and ask for this confirmation to be provided in writing to him or her by the end of the 30-day consultation period at the latest. Confidential minutes should be kept of this meeting and kept on file for audit purposes.

- 7.5 After the one-to-one meetings have taken place with directly affected staff, the Head of Academy shall provide an update to the whole school staff by way of group meeting. This ensures that all staff are briefed about proposed changes, understand the rationale for change and have an opportunity to share views and/or suggestions about the proposals. It can also encourage bumped redundancies [see definition at 3.4.4. above]. A template script appears in the toolkit. It is advisable to keep a register of staff in attendance, so that staff who are absent due to maternity, paternity, adoption, sickness and/or secondment etc. can be consulted with separately. A suggested letter appears in the toolkit.
- 7.6 Following the 30 (or 45-day) consultation period (see 7.3 above), the Head of Academy or appropriate manager should feedback any comments or suggestions made by staff and/or unions to the appropriate committee and decide if the original business case or section 188 Notice requires amendments as a result of the consultation and/or advice sought from HR.

8.0 Voluntary Redundancies (VR) and Voluntary Early Retirement (VER)

- 8.1 In order to minimise the need for compulsory redundancies, redundancy estimates will be provided to affected staff once the business case has been approved by HR and once consultation has started. As support staff who are dismissed on redundancy grounds over the age of 55 can attract a costly pension strain, which is payable by the base academy, the Head or appropriate manager should enquire with pensions early on in the process about costs. Employees in this age bracket should also seek information from their pension providers on the implications for their pension if they were to be granted VR.
- 8.2 Redundancy estimates should be shared with affected staff during the consultation period and staff should be asked to submit their expressions of interest in VR within the consultation period. Employees should be warned that WHMAT is not obliged to accept any or all of the requests for VR that are received on business grounds (see letter in toolkit).
- 8.3 Once expressions of interest have been received (from directly affected staff and/or bumped staff), the Head shall meet with the CEO and/or OC Committee to consider whether or not to accept the requests. HR will notify staff in writing of the outcome of their VR request and next steps within a reasonable period (see toolkit).
- 8.4 Before carrying out any selection process at 9.0 below, WHMAT will also consider any requests for VER, where this meets the needs of the business. It may be accepted or declined by the CEO and/or OC Committee. This decision will be based on a) whether accepting would be in the interest of organisational efficiency; b) the potential budgetary savings that could be made; and/or c) the impact of the pension strain cost.

9.0 Compulsory Redundancies (CR)

- 9.1 If there is not a sufficient number of expressions of interest in VR or VER, or WHMAT is unable to accept any or all of the requests received on business grounds, we may, as a last resort, need to consider compulsory redundancies.

9.2 In these circumstances, the Head of Academy or appropriate manager shall:

9.2.1 Write to the employee(s) who are self-selecting for redundancy purposes i.e. because they are the only individual undertaking that role, or because WHMAT is proposing to make all staff who undertake a specific role redundant and notify them that they have been provisionally selected for redundancy and have a right to a meeting before the OC Committee to discuss this; and/or

9.2.2 Select a panel of scorers who will be responsible for the provisional selection of employees for CR within a selection pool. To minimise bias, this will involve a combination of:

9.2.2.1 selection matrix (see example in toolkit),

9.2.2.2 skills audit/personal statement (see examples in toolkit) completed by employee and/or their line manager;

9.2.2.3 competency based interview (see guidance in toolkit). Guidance on how the panel should undertake this process appears in the toolkit.

The documents at 9.2.2.2 and 9.2.2.3 will not include employee names when being considered by the panel.

9.3 Once the panel of scorers have scored the affected staff using some or all of the selection methods at 9.2 above, details should be fed back to the OC Committee (including who has been selected and the reason(s) why). HR will then write to those staff confirming that they have are now at risk of CR and giving them the option to meet with the OC Committee to discuss their selection and any suggestions that they may have for avoiding redundancy within a reasonable period (see toolkit). Each employee will be notified in writing of their score and the rationale for that score. If they request this, the employee has the right to see a copy of the selection matrix setting out the scores of all employees in the selection pool. However, **the name of each employee must be redacted for data protection purposes**. Staff should be required to confirm or decline this offer of a meeting within 5 working days of receiving this letter at the latest, so as not to unnecessarily delay the process.

9.4 Colleagues who choose not to attend a formal meeting with the OC Committee or CEO, where appropriate, will receive a written letter giving them notice of dismissal due to redundancy (see 10.7).

10.0 Dismissal meeting

10.1 If the employee provisionally selected for CR elects to attend a formal meeting before the OC Committee, or before the CEO or WHMAT Head of Academy not previously involved in the process, a meeting will be arranged as soon as convenient.

- 10.2 A suggested agenda and format for this meeting appears in the toolkit. The OC Committee (or CEO/Head of academy) will also have regard to the guidance on behaviour at meetings and hearings (see toolkit).
- 10.3 The employee may wish to make representations about their proposed redundancy including the way that the redundancy process was undertaken, the selection methods chosen, or the way in which they were applied, although this list is not exhaustive. Either party may wish to call the Chair of the scoring panel as a witness to this meeting.
- 10.4 If a provisionally selected employee confirms their wish to make representations before the OC Committee, they will receive a formal invite letter from HR confirming the date, time and venue (see toolkit). To ensure that the employee has enough time to prepare for this meeting, reasonable notice of the meeting should be given. This should be at least 10 working days, unless there are exceptional circumstances. If you know that an employee intends to be represented by a workplace colleague or certified trade union, it is helpful to agree a date with them, before sending out the invite letter. If a trade union is unable to make the suggested date and time, the employee must suggest an alternative date and time which is reasonable and no more than five working days after the original date. The OC Committee may reject this suggestion but will do so only if it is unreasonable, when they may proceed to hold the meeting in the employee's absence. Advice should be sought from a HR representative in these circumstances.
- 10.4 The Clerk to the OC Committee will ensure that all parties to the hearing (OC Committee, employee, their representative and the HR representative) receive copies of any supporting paperwork for this meeting at least 5 working days before the meeting (see toolkit for guidance). Any evidence supplied by the employee at short notice may not be considered by the OC Committee, this will be down to the discretion of the Chair.
- 10.5 The outcome of the meeting may be:
- 10.5.1 that the employee is dismissed from employment on grounds of redundancy with contractual notice or payment in lieu of notice; or
 - 10.5.2 accept the employee's representations that he or she has been unfairly selected for redundancy and decide that he or she may continue in employment at WHMAT.
- If, as a consequence of deciding that a particular employee should not be made redundant, another employee is provisionally selected for redundancy, the OC committee should inform that employee in writing as soon as possible and give that person an opportunity to make representations before the OC committee as described above.
- 10.6 The committee shall communicate the decision to the parties in person or subsequently in writing as the committee shall determine. An oral communication shall be confirmed in writing within ten working days, including the right of appeal.
- 10.7 Employees who confirm that they do not wish to attend a meeting to discuss their provisional selection for redundancy, will be served with written notice of their dismissal on redundancy grounds and will be notified of their right of appeal. The employee will also be informed that

steps will continue to be taken to avoid the redundancy as far as possible, including consideration of suitable alternative employment. Within this letter, they will also, where applicable, be notified of their right to receive a redundancy payment, with clarification of the amount and how this has been calculated (see toolkit).

11.0 Appeals

- 11.1 An employee has the right of appeal against the decision of the OC Committee or (CEO/Head) who has conducted the meeting at 10 above. An appeal shall be to a separate and impartial appeal committee comprising 3 impartial WHMAT Board Trustees.
- 11.2 An employee may appeal by giving written notice of the appeal and of all the grounds on which it is being made to HR within five working days of receiving written confirmation of the outcome of the meeting at paragraph 10. The grounds for the appeal should be accompanied by any additional evidence to be presented in support of the appeal. There is no requirement to submit any documentation if the employee does not wish to, other than a statement from any witness who may be called by the employee. However, if the employee does not intend to submit any documentation there should be a positive statement from the employee and/or their representative to this effect and the employee will not be able to use at the hearing any evidence not previously circulated to the parties in advance, unless there are exceptional circumstances and the Chair agrees that new evidence should be taken into account.
- 11.3 HR will immediately notify the Head of Academy or person representing the committee (whichever took the decision against which the employee is appealing) of all the grounds of appeal and any additional evidence, with a request to submit any additional papers in response to HR within five working days.
- 11.4 The clerk to the appeal committee will then arrange an appeal hearing in reasonable time. The clerk shall give at least five working days' formal notice of the date, time and location of the appeal hearing to all participants. All documents relevant to an appeal hearing shall be enclosed with the letter. The employee/trade union rep may suggest an alternative time and date as long as it is reasonable and is not more than five working days after the original date. The committee may reject this suggestion if it is unreasonable and may proceed to hear the case in the absence of the employee or their representative, it also has the discretion to defer the date of the hearing in order to reach mutual agreement on a convenient date.
- 11.5 The witnesses may include, as appropriate to the circumstances of the case, the Head of Academy and/or a member of the committee who took the decision against which the employee is appealing, or the person who presented the case if that person was not the Head of Academy.
- 11.6 The format for the appeal appears in the toolkit.
- 11.7 The appeal committee may dismiss the appeal or uphold the appeal.

- 11.8 The appellant may choose whether to hear the appeal committee's decision in person or receive it subsequently in writing, but this choice shall not prevent the committee from choosing to adjourn and reconvene before making a decision. An oral announcement shall be confirmed in writing by the clerk within five working days of the appeal hearing unless there are exceptional circumstances. If an appeal against dismissal is upheld, the outcome letter will clarify that the dismissal has been withdrawn and that the employee has been reinstated without a break in service.

12.0 Suitable Alternative Employment (SAE)

- 12.1 WHMAT will explore whether it has any suitable alternative work for employees "at risk" before making them redundant. However, the employee should also let the Head of Academy know if there are any specific roles they wish to be considered for, as WHMAT may not be aware of their interest. All posts are advertised at www.washwoodmat.com.
- 12.2 Any offers of alternative work will always be driven by the needs of WHMAT, and whether or not an employee can apply for an internal vacancy will depend on all of the circumstances. WHMAT will let the employee know the procedure that needs to be followed if the employee is eligible to apply.
- 12.3 SAE will include roles that are similar in nature to the employee's existing post, in terms of the skills and competencies required to undertake the role, equivalent salary, status, working hours and geographical location. Employees may be "slotted-in" to equivalent posts that become available unless a "ring-fenced" selection process is required because e.g. the number of employees at risk of redundancy exceeds the number of posts available. Where more than one employee who is at risk of redundancy is competing for the same SAE opportunity, a robust and competitive selection process will be applied, the detail of which will be determined by HR and the relevant Head of Academy.
- 12.4 Where any vacant posts are new to WHMAT's staffing structure, or are substantially different to the role currently being performed by the employee who is at risk or under notice of redundancy, then "substantially different" may be defined in terms of the following criteria:
- 12.4.1 Strategic impact of the role;
 - 12.4.2 Level of accountability / control over own workload;
 - 12.4.3 Line management responsibility / control over the workload of others
 - 12.4.4 Key skills / knowledge required of the post holder;
 - 12.4.5 Nature/level of competencies attached to the role;
 - 12.4.6 Reporting relationships;
 - 12.4.7 Financial / Budget responsibility.

Slotting-In/Assimilation

- 12.5 Slotting-in should be the first step when filling jobs in a new staffing structure. This is the process of matching an employee to a post without a selection process as the new or amended post resembles in all or most respects, the employee's existing post, which is being replaced or changed as part of the restructure. It requires a clear demonstration that the scope and responsibilities of the staff member's post remains extensively the same under the new structure, including level of responsibility. Assimilation may apply where the grade of the new post in the new structure is higher than the employee's current grade, but is more likely to apply when the new post under the new structure is the same grade or lower. Salary protection will apply if the employee is slotted into a lower graded role.
- 12.6 It should be based on an assessment of the criteria required for the job under the new structure (as set out in the job description and person specification) and the employee's present job, current experience, skills and qualifications. For example, if the employee is assessed as currently undertaking 75% or more of the duties and responsibilities that will be required of him or her for the post under the new structure and meets all of the essential criteria detailed on the relevant person specification for that new role, then he or she should be slotted into the new post rather than going through a formal competitive interview process, provided that any gap in skills, knowledge or competence can be overcome within a reasonable timescale and with reasonable support and training. In addition, where an employee's post is either unchanged or little changed, he or she will be slotted into the new structure. If, however, more than one member of affected staff is eligible to fill that new post and more than one have expressed an interest in that post, the 'ring fencing' arrangements outlined below should apply.

Ring-fencing

- 12.7 Where assimilation is not relevant to a particular post or posts, or where there is more than one employee who would be eligible to be slotted into a post under the new structure, WHMAT will need to undertake a ring fenced selection process. 'Ring-fencing' takes place after assimilation. It means that employees whose posts will be deleted from the staffing structure are given the first opportunity to apply for newly created posts or suitable alternative posts before they are advertised elsewhere, either internally or externally.
- 12.8 It may be necessary to undertake the ring-fencing process in stages. Where a post or a group of posts combines a number of existing responsibilities held by current employees then the post or posts should be open to those employees only and appointed from them following an agreed selection process. Other posts would be filled during subsequent stages of ring-fencing as decided during the consultation period.
- 12.9 During the consultation, there should be detailed discussion about the arrangements for ring-fencing to ensure that it is a fair process. This process may be based on specific qualifications (where appropriate), skills and experience required (primarily demonstrated by current job description and person specification) to establish a pool of employees to be ring fenced for each post.
- 12.10 Where substantially different posts become available, employees who are at risk or under notice of redundancy will be notified of the potential vacancies arising but will not be automatically ring-fenced and will need to express an interest in the post if they wish to be considered for it.

Employees who express an interest will then be guaranteed a 'ring fenced' interview for the post, prior to the post being advertised internally/externally, as long as their expression of interest demonstrates that they meet the job requirements and are therefore potentially suitable for the role.

- 12.11 If more than one post in the new structure is capable of being ring fenced, the Head of Academy, or other appropriate manager, should ask affected staff to notify them of their preferences in order. If the preferences do not match precisely the number of posts available a selection process would then need to be carried out in line with the arrangements agreed during the consultation process. The selection process could be in the form of an exercise or assessment or formal interview or a combination of these.

"At risk" pool

- 12.12 If the new role content is less than 75%, or there are fewer posts available than employees displaced, employees will be placed into a pool and declared 'at risk' due to redundancy. They will be given preferential consideration for securing one of the new posts on a 'ring-fenced' competition basis (see 12.11). Employees who do not secure a post will remain 'at risk' and be issued their notice of redundancy. During their notice period they will continue to be considered for wider redeployment within the academy and other academies in WHMAT if this is possible. They will be eligible to apply for other vacancies within the academy/Trust as they arise and will be offered an interview if they meet the minimum criteria for the post.

Trial periods

- 12.13 An employee who is at risk of redundancy and who is redeployed during their notice period has a statutory right to a trial period of four weeks in a WHMAT job where the provisions of the new contract differ from the original contract, without losing their entitlement to a redundancy pay. The trial period enables both WHMAT and the employee the opportunity to decide if the redeployment has been a successful choice. If it is decided by either party during or at the end of the four-week trial period that the redeployment has not been successful then the employee can still take redundancy. Training needs identified either before or during the trial period will be considered provided they are reasonable and proportionate.
- 12.14 An employee may lose their entitlement to redundancy pay if they are at risk or under notice of redundancy and unreasonably refuses to accept suitable alternative work offered by WHMAT. WHMAT HR will always make an objective assessment of the suitability of alternative employment (for further guidance see extract from Acas in toolkit).
- 12.15 An employee given notice of redundancy will be allowed reasonable paid time off from WHMAT to look for alternative employment, to attend interviews or to receive external careers advice. Employee's will also be signposted to the EAP via Perkbox.
- 12.16 Every effort will be taken to make reasonable adjustments to facilitate the continued employment of any disabled employee who is at risk of redundancy. Specific protection will also be given to employees who have already commenced a period of maternity leave when they are notified that they are risk at redundancy. Please discuss with HR before starting any discussion about SAE.

13.0 Pay Protection

- 13.1 Pay protection will apply in certain circumstances following changes to grades/scale points as a result of a restructure or other organisational change. Pay protection will not apply where there is a decrease in hours/weeks worked per year.
- 13.2 For Teachers this will be in line with the safeguarding provisions as set out in STPCD, this includes changes to leadership pay and TLR allowances.
- 13.3 For support staff, the protection will be applied to basic wage/salary, which will include any pay award during the period. Pay protection will apply for a period of six months from the date of implementation of the change. It will only apply where the reduction is up to two grades lower than the current grade (any lower than this, the role is not considered a suitable alternative). At the end of the pay protection period, the employee will be placed on the top of the new grade.

14.0 Continuous Service Under the Modification Order

- 14.1 Under the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 (the Modification Order), where an employee who is under notice of redundancy receives an offer of a job from another Modification Order body (organisations who are regarded as local government employers), 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, and therefore no entitlement to redundancy pay. Details of the relevant employers can be found in Schedules 1 and 2 of the statutory provisions at <https://www.legislation.gov.uk/uksi/1999/2277/contents/made>.
- 14.2 Employees will be asked, before a redundancy payment is made, whether or not they have been offered another job with a Modification Order body and, if so, whether they intend to take the offer up within 4 weeks of finishing their current contract (at the end of the notice period).
- 14.3 If an employee takes a redundancy payment and starts employment with a local government employer, their previous continuous service will not be recognised for employment benefits.

15.0 Policy Review

- 15.1 This Policy will be reviewed by HR on a biannual basis following consultation with key stakeholders, to ensure it fully supports the aims set out above.

Appendix 1 – Restructure with redundancies or other detrimental impact

Head prepares business case plus appendices with support from WHMT HR/Finance (CEO for head office staff)

- 1) HR emails copy of business case to unions with invite to a consultation meeting
- 2) Directly affected staff are invited to attend group consultation on same day or shortly after

Head & HR lead consultation meeting with trade unions & directly affected staff, ideally on same day – 30 calendar day consultation starts. Individual 1-2-1s offered during consultation period

- 1) Head sends out whole school communication about proposals
- 2) Redundancy estimates shared with affected staff & expressions of interest invited by end of consultation period
- 3) 1-2-1 consultation meetings take place with affected staff & unions (optional for employees)

Once 30-day consultation period concluded, Head/HR review business case, if applicable, and update staff & unions

Slotting-in/assimilation & ring-fencing takes place for any staff displaced as part of the restructure – staff without roles or suitable alternative employment will be informed that they are at risk of redundancy

Skills matrices handed out for completion by affected staff & their line managers

- 1) Head/HR review applications for voluntary redundancy & pass to OC Committee for consideration
- 1) Staff receive written confirmation of whether VR accepted/notice served & right of appeal

