



# PONTARDDULAIS COMPREHENSIVE SCHOOL YSGOL GYFUN PONTARDDULAIS



## Redundancy Policy Polisi Afreidrwydd

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# PONTARDDULAIS COMPREHENSIVE SCHOOL

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### REDUNDANCY POLICY AND PROCEDURES FOR SCHOOLS WITH DELEGATED POWERS (ALL SCHOOL EMPLOYED STAFF)

#### 1. Background

The Staffing of Maintained Schools (Wales) Regulations 2006 places a requirement on Governing Bodies operating under Schemes of Delegation to inform the Local Authority of staff who the Governing Body have determined shall cease to work there, for whatever reason, including redundancy. The Local Authority is required to bring to an end, the employment of the member of staff concerned unless a suitable alternative vacancy is found. Governing Bodies are, however, advised that staff are a valuable resource and that any reduction in their number should be made only as a last resort.

The following guidance is therefore provided to Governors in terms of the procedure which might be adopted where the school requires a reduction in staffing. It is offered in good faith, but with **the requirement that advice is sought from Senior Management of the Education Department at the earliest possible moment including the Schools Principal Human Resources Officers and subsequently throughout the progression of a specific case.** Where advice is not sought from the Local Authority, or where advice is given but not followed, the Authority will charge to the School's budget any costs arising from claims of wrongful or unfair dismissal. Wherever possible there should be a clear loss of a budgeted post, with a full post saving being achieved. However, it is recognised that schools will retain the flexibility to reorganise their staffing compliment in light of service needs. In all cases the school will need to demonstrate a robust business case for the redundancy. The Local Authority will be unable to support and fund the redundancy where the business case is not approved.

If the Governing Body chooses to formally adopt the procedure outlined, details must be issued to all staff so that they are fully aware of their rights and obligations. If Governing Bodies choose to adopt a different procedure, they are advised to consult the Local Authority on that procedure. They will also need to fulfil the statutory requirements regarding consultation with Trade Unions and relevant parties.

The Local Authority has the right, where it has good cause, to charge any costs arising from the use of different procedures to the budget of the school concerned. Similarly, any payments made in excess of the agreed Council Early Retirement/Redundancy Scheme will be a charge on the budget of the School.



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### 2. Policy Statement

The School will seek by careful forward planning, including consultations where appropriate with Trade Unions, to ensure as far as possible security of employment for its employees. However, it must be recognised that there may be changes in legislation, organisational requirements, technological developments, financial pressures, etc. which may affect staffing needs. The Governing Body will seek to minimise the effect of any adverse results of those staffing needs by investigating such matters as:

- natural wastage
- internal redeployment & retraining
- restrictions on recruitment
- ending temporary contracts
- early retirement
- voluntary redundancy

Where redundancy is inevitable, the Governing Body will handle the matter in the most fair, consistent and sympathetic manner possible in order to minimise any hardship that may be suffered by the employee(s) concerned.

In such circumstances, the procedure to be followed is set out in the following Procedure and Practice.

### 3. Procedure and Practice

#### a) Definition

Under the Employment Rights Act 1996, redundancy arises when employees are dismissed in the following circumstances:

- where the employer has ceased, or intends to cease, to carry on the business for the purposes for which the employee was employed; or
- where the employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed; or
- 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 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.



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### b) **Role of the Governing Body**

Redundancy is a form of dismissal and therefore Governors need to ensure that an appropriate mechanism is established.

There is a statutory requirement for all Governing Bodies to establish a Staff Disciplinary & Dismissal Committee and an Appeals Committee.

The redundancy procedure will be conducted by the Staff Disciplinary & Dismissal Committee of the Governing Body comprising a minimum of three Governors wherever practicable not employees of the school. This Committee must be formally constituted with plenary powers to dismiss. The Headteacher and a representative of the Director of Education will be entitled to attend and offer advice. The Appeals Committee should comprise a minimum of three Governors wherever practicable not employees of the school and who were not part of the original Staff Disciplinary & Dismissal Committee. This Committee must be formally constituted with plenary powers to uphold or dismiss the appeal. The Headteacher and a representative of the Director of Education will be entitled to attend and offer advice.

It is important that the remainder of the Governing Body do not pre-empt the Staff Disciplinary & Dismissal Committee's determinations in any way. Details of specific cases **should not be divulged** to the remainder of the Governing Body some of whom may be required to hear an appeal at a later stage.

### c) **Redundancy Proposals**

The Personnel and Resources Sub-Committee should initially carry out a review of all financial staffing and operational alternatives where budget reductions are needed.

Where the need for a staffing reduction is identified, the Curriculum Committee will identify where these reductions should occur. This will be carried out by developing and analysing a curriculum and staffing audit. Should the need for a redundancy be confirmed, the Staff Disciplinary & Dismissal Committee of the Governing Body will need to invoke the school's redundancy policy. This should be in consultation with a member of the local authority HR Schools Team.

### d) **Consultation**

Immediately upon declaring a contemplation of redundancy within the School, the Staff Disciplinary & Dismissal Committee will issue notice of consultation to recognised Trade Unions under the provisions of Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992. The statutory items which must be included are:

- the reasons leading the Governing Body to its proposals;
- the number and descriptions of staff the Governing Body proposes to remove from the school;





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- the total number of employees of each description;
- the proposed method of selection based on the principles and criteria set out below;
- the procedures and the timescale to be used;
- the proposed method of calculating the amount of redundancy payments.

Consultation with the appropriate teacher and support unions will take place where it is proposed to dismiss one or more members of staff. The consultation between the Governing Body, LEA and Trade Unions will take place at the earliest opportunity and prior to any selection of individuals. Consultation shall include consultation on means of avoiding the dismissals, reducing the number of employees to be dismissed and mitigating the consequences of the dismissals. The objective shall be to reach agreement.

### e) **Selection Procedure**

Following consultation, if the Staff Disciplinary & Dismissal Committee still feels it is necessary to reduce the number of staff employed at the School, selection will be made in accordance with the following principles:

- be objective and fair;
- non-discriminatory (whether directly or indirectly);
- in accordance with the agreed School Development Plan and the staff review/audit process;
- designed to avoid a judgement on the member of staff's professional capability.

### f) **Criteria**

In consultation with the Trade Unions, the Staff Disciplinary & Dismissal Committee will adopt the selection criteria to be used for the identification of staff for redundancy. Selection criteria to be considered will include in no particular order or priority:

- i the curricular and operational needs of the school, with particular reference to the School Development Plan and the needs of the pupils in the school.
- ii the staff pool will normally consist of those staff from the curricular or operational area identified as requiring fewer staff.
- iii volunteers for redundancy, retirement or redeployment from the curricular or operational area.
- iv having taken into account the needs of the school as outlined above in retaining a balanced and coherent work force it may then become necessary to select on the basis of length of service.

Where selection is on the basis of length of service the following principles will apply:

- i) length of service with Swansea Council, the former West Glamorgan County Council and, prior to the 1st April 1974, service with the former Swansea City, Port Talbot and Neath Districts and Glamorgan County Councils;
- ii) if (i) above does not determine who is selected, then length of service in the School concerned will apply;



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- iii) if (i) or (ii) above do not determine who is selected, overall length of service in local government.

No public announcements will be made until those individual members of staff selected for redundancy have been informed.

### g) **Representation**

Upon preliminary selection for potential redundancy, the Staff Disciplinary & Dismissal Committee or representative will inform the individual involved and their respective Trade Union representative. The individual should be notified in writing of the reasons for selection and their statutory right to:

- i) make personal representations to the Staff Disciplinary & Dismissal Committee against their selections and
- ii) their right to appeal against the determination of the Committee to the Staff Disciplinary & Dismissal Appeal Committee.

Should an individual wish to exercise his/her right to personal representation then this should be done within 2 working days of being notified of the determination. This should be exercised in writing to the Headteacher. The representation will be made to the Staff Disciplinary & Dismissal Committee. Five working days' notice will be given of the time and place of the meeting and the individual will be provided with full details of the criteria used and any scores relevant to them and have the right to be accompanied by a companion who must be a Trade Union representative or a work colleague. The individual will be informed of the outcome. Where the preliminary selection is confirmed, the individual will be advised in writing and of their right of appeal against this determination before it is notified to the employing authority.

### h) **Appeal**

The individual should exercise notice of the right of appeal within 2 working days of the written outcome of the personal hearing. Again, this should be in writing to the Headteacher. The Appeal will be heard by the Staff Disciplinary & Dismissal Appeal Committee. This should comprise no fewer members than the Staff Disciplinary & Dismissal Committee and no members of that Committee can take part. Five working days notice of the time and place of the meeting will be given and the individual will have the right to be accompanied by a Trade Union representative or work colleague.

The Director of Education Officer or his/her representative has a right to attend this meeting for the purpose of providing advice. The individual will be informed in writing of the outcome of the Appeal. Where the Staff Disciplinary & Dismissal Appeal Committee does not uphold the appeal, the individual will be informed in writing giving reasons, and the Governing Body will then notify the Local Education Authority of the determination.



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### i) **The Role of the LEA**

The legal requirement of the Local Authority is to seek suitable alternative employment and will attempt to redeploy both volunteers and potentially compulsory redundees throughout Swansea Council.

All parties will be aware of the legal constraints in that the Local Authority cannot insist that a Governing Body offer a post to a person who is potentially redundant and so each Governing Body should co-operate with the Local Authority in its attempt to redeploy redundees throughout Swansea Council. Likewise, the School should continue to look for appropriate ways of avoiding the redundancy. The Local Authority reserves the right to refuse volunteers on financial grounds following the consideration of the business case. Once all stages have been exhausted and any appeal rejected, the Governing Body will notify the Local Authority of its determination. The Local Authority will issue appropriate notice in accordance with the member of staff's contractual terms and statutory provision. The Local Authority with the co-operation of the member of staff involved will make every reasonable effort to find suitable alternative employment throughout Swansea Council. Should suitable alternative employment be secured then notice will be withdrawn. During the notice period, reasonable paid time off will be given to any staff who have been made compulsorily redundant to find alternative work or to make arrangements for retraining.

### j) **Unfair or Wrongful Dismissal**

In the event of a redundant employee initiating proceedings for unfair or wrongful Dismissal, the Governing Body will be the appropriate Respondent in any proceedings. A Representative of the Governing Body may have to appear at the resulting Employment Tribunal. This would also apply to claims of wrongful dismissal pursued either in the Employment Tribunal or the County Court. Where the advice of the Director of Education has not been sought, or where that advice has not been followed, costs arising could be a charge on the establishment's budget. Governing Bodies are, therefore, advised to follow this procedure and seek advice from the HR Schools Team at the earliest moment and thence throughout any case which might arise.

### 4. **School Website**

This policy is available on the school website: [www.pontcomp.swansea.sch.uk](http://www.pontcomp.swansea.sch.uk)