Redundancy and Redeployment Policy

Date approved: 15 July 2015
Approved by: Executive Board
Review date: July 2018
Responsible Manager: Head of Human Resources
Executive Lead: Group Director (HR and OD)
Accessible to Students: No

1. Consultation

Consultation undertaken with:-

- Newcastle College: Yes
- Group Services: Yes
- The West Lancashire College: Yes
- Newcastle Sixth Form College: Yes
- Intraining: No
- Rathbone: No
- Kidderminster College: No

2. Applicability of Policy to Organisation

This policy applies to:-

- Newcastle College: Yes
- Group Services: Yes
- The West Lancashire College: Yes
- Newcastle Sixth Form College: Yes
- Intraining: No
- Rathbone: No
- Kidderminster College: No
3. **Scope and Purpose of Policy**

This policy and procedure does not form part of staff contracts of employment nor does it confer any contractual rights. It applies to any member of staff employed at Newcastle College, NCG Group Services, West Lancashire College and Newcastle Sixth Form College under a Contract of Employment other than the “holders of senior posts” as defined in NCG’s Articles of Government. This policy and procedure does not apply to independent contractors working for NCG.

The aim of all NCG Policy frameworks is to give employees as much freedom as possible in how they deliver their work whilst recognising that to safeguard everyone’s interest it is necessary to have in place rules that must be upheld in the workplace.

NCG aims to ensure that there will be a fair and systematic approach to the management of redundancy situations in the workplace.

The aim of this policy is to ensure that:

- everyone is treated fairly and consistently and equally regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- everyone knows what to do if a redundancy or appeal situation occurs, and how it will be managed.

4. **Policy Statement**

The Employment Rights Act 1996 provides that redundancy arises where employees are dismissed in the following circumstances:

- Where the employer has ceased or intends to cease, to carry on the business for the purpose of 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 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 employed, have ceased or diminished or are expected to cease or diminish.

NCG is committed to the highest level of job security for all its employees recognising the important contribution this makes to the overall provision of the Group’s activities. However NCG also recognises that it may be affected by economic, market and organisational factors that require a
change to the way in which NCG carries out its activities. This may result in posts becoming redundant.

NCG will make every reasonable effort to avoid or reduce the number of redundancies and to mitigate the effects of the redundancies.

5. **Equality and Diversity Statement**

   In accordance with NCG procedures an equality impact assessment has been undertaken for this policy on 15 July 2015.

6. **Linked Policies**

   Flexible Working Policy (Staff)
   Maternity Policy (Staff)

7. **Linked Procedures**

   Flexible Working Procedure
   Maternity Procedure

8. **Location and Access to the Policy**

   The Policy can be accessed:

   - Newcastle College & Group Services Intranet - College Information /College Policies & Strategies
   - Newcastle Sixth Form College – as above
   - West Lancashire College Intranet - Performance & Standards / HR / Policies & Procedures
   - NCG Website: Guide to Information: Our policies and procedures

   If employees have no access to the Intranet site and wish to view the policy they should contact their line manager or their Human Resources Department.

9. **Person Responsible for the Policy**

   - The Head of Human Resources.

10. **Variations**

    No variations to this policy have been made in relation to any Division of NCG to which it applies. Intraining, Rathbone and Kidderminster College have separate arrangements in place which reflect their structures.
Redundancy and Redeployment Procedure

1. Key Principles

This procedure is designed to comply with relevant legislation and good practice.

NCG recognises the benefit of early collective consultation and also its statutory obligations in respect of individual consultation.

NCG will make every effort to avoid compulsory redundancies wherever possible.

Where the substantive duties of the post holder are wholly or mainly the same in the new structure as they were in the old, and where no other staff in the same role are displaced, the member of staff should be appointed to the position in the new structure automatically without competition. Where there are differences and the post is a new role, a competitive selection process will be conducted.

Employees under notice of redundancy will be given reasonable time off with pay to seek alternative employment.

2. Equality and Diversity

Where an employee has a disability or other specific requirement and reasonable adjustments are necessary, the employee should reach prior agreement about the nature of such adjustments with the manager responsible for the relevant part of the procedure.

In cases where sickness absence delays the process, NCG reserves the right to refer individuals to Occupational Health to explore ways in which the process can be adjusted to allow individuals to partake without unnecessary delay.

It is NCG policy that no audio recordings are permitted to be taken at any meeting other than in exceptional circumstances and by prior agreement e.g. to accommodate visual/hearing impairment.

3. Right to be Accompanied

Throughout the formal stages of this procedure the employee has the right to be accompanied by a work colleague or a trade union representative. The employee should notify the manager responsible for chairing the meeting, in advance of the meeting, if they wish to be accompanied and who their companion will be.

The companion may, at the employee’s request:
• assist the employee to prepare for the meeting.
• put forward the employee’s response.
• sum up the employee’s response.
• respond on the employee’s behalf to any view expressed at the meeting.
• confer during the meeting and/or request an adjournment.
• take notes on the employee’s behalf

However, the companion cannot answer questions on the employee’s behalf.

Where the chosen companion cannot attend on the date proposed, an employee can propose an alternative time and date so long as it is reasonable and falls within 5 working days of the original date.

4. Avoiding Redundancies

Management will consult on appropriate measures to reduce, eliminate, or mitigate the number of redundancies. Possible measures may include, but are not limited to, the following:

• Where business needs permit, a review of external recruitment activity in order to maximise redeployment opportunities arising from natural wastage and staff turnover.

• Considering individual applications from staff placed at risk of redundancy to reduce contracted hours or to job share.

• A review of the requirement for staff working under temporary contracts.

• Considering applications for early retirement/voluntary redundancy from staff placed at risk of redundancy. NCG reserves the right to make the final decision on any application for early retirement/voluntary redundancy.

5. Selection Method and Selection Criteria

In situations where it becomes necessary to affect compulsory redundancies Human Resources will co-ordinate consultation on the most appropriate selection method to be used in any given situation. Selection methods may include, but are not limited to, desktop selection, competitive interviews or an assessment meeting.

Human Resources will discuss the proposed selection criteria with the staff affected and the recognised trade union(s) as part of the consultation process.

Selection criteria will be fair and capable of objective measurement. The most appropriate selection criteria for each particular situation will be
determined. These criteria will ensure that there remains a balance of skills to meet business needs. NCG reserves the right, at its absolute discretion, to decide whether any particular member of staff may leave the organisation or not under any redundancy arrangement or agreement.

6. **Employees on Maternity Leave or Long Term Sick**

Women who are absent on maternity leave, regardless of length of service, must not be selected for redundancy for a reason connected with their pregnancy or maternity leave and must be considered for a suitable alternative vacancy, if a contract of employment ends through redundancy during their maternity leave.

Human Resources will develop special measures to ensure that staff absent on maternity leave or long term sick, receive general communications and are given the opportunity to engage in group and individual consultation.

7. **Suitable Alternative Employment**

During the consultation period every effort will be made to seek alternative employment within the organisation, for which at risk employees may be considered. Where these exist, Human Resources will publish information about the vacant positions in order that the “at risk” employee can decide whether or not to apply, and in such circumstances, the employee will be subject to a standard selection process.

In deciding ‘suitability’ of an alternative role the whole job must be considered; no single factor is decisive. Factors which may be taken into account include skill/task, net pay, hours of work, time and cost of travelling, working conditions. The terms and conditions which apply will be in accordance with the standard terms of the alternative role.

An employee who accepts an offer of alternative employment will be entitled to a trial period of four weeks to ascertain if the post is suitable. The offer of alternative employment can be rejected by the employee if the position is deemed unsuitable.

An employee who unreasonably refuses an offer of suitable alternative employment or rejects such employment during or after a trial period may forfeit their right to a redundancy payment.

If, at the end of the trial period, the post is considered unsuitable, the employee would then be in a redundancy situation and, therefore, entitled to a redundancy payment if no other alternative employment is available.
8. **Redeployment**

Redeployment opportunities may also be available across NCG and will be advertised in the normal way and subject to a selection process. For the purposes of this policy, a role where the duties are substantially different to those of the substantive post is classed as a redeployment opportunity.

An employee who accepts an offer of redeployment elsewhere in NCG will be allowed a trial period of up to four weeks to ascertain if the post is suitable. The job offer can be rejected if the position is deemed unsuitable following, or during, the trial period.

If the post is considered unsuitable, the employee would then be in a redundancy situation and entitled to a redundancy payment if no further alternative posts were available.

9. **Salary Protection Arrangements**

Salary protection arrangements may be considered in relation to any permanent employee who, as a result of organisational change, is required to move to a lower graded post. Human Resources will ensure that salary protection arrangements, including the length of the protected period, are the subject of consultation at an early stage.

If protection applies, an employee is entitled to have the salary level of their former post protected for a length of time determined during consultation. The protected salary will be frozen and will not be subject to either incremental or cost of living rises.

10. **Assistance in Job Search**

Subject to business needs, staff will be given permission to take reasonable time off work, with pay, during their notice period to look for work, or seek retraining opportunities, in accordance with current legislation.

11. **Redundancy Pay**

Redundancy pay is conditional upon NCG’s ability to pay the statutory minimum.

NCG pays an individual redundancy payment on the termination of employment due to redundancy. Payment calculations are based on the normal contractual salary at the effective date of termination and do not include any bonus or commission payments. NCG operates the statutory calculation in respect of redundancy payments and applies the statutory limit on a week’s pay.
12. Modification Order 1999

In line with the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999, employees may count continuous employment service with local authority associated employers (named on the Order) towards the service requirement for the purposes of redundancy pay only. Employees are responsible for bringing any previous service to the attention of Human Resources and for supplying the required evidence of continuous service and the reason for leaving that employment.

13. Procedural Stages

The following is intended as a framework and may need to be adapted to suit the needs of each situation. In particular, it may not be appropriate to follow each of the steps in turn or in the timeframes suggested. Therefore, the circumstances of each re-organisation will be taken into account in determining the appropriate way of dealing with any potential redundancies.

14. Collective Consultation

Where 20 or more redundancies are contemplated in a 90 day period at any one establishment consultation will take place with trade unions or elected representatives as follows:

- A minimum of 45 days’ consultation where 100 or more jobs are proposed to be made redundant.
- A minimum of 30 days’ consultation where 20 or more jobs are proposed to be made redundant.
- As much consultation as is reasonably practical where fewer than 20 jobs are affected. In these circumstances, consultation may be on an individual basis only.

Minimum periods of consultation reflect current legislative requirements and will be amended to reflect any future changes.

Section 188 of the Trade Union and Labour Relations (Consolidation) Act (1992) provides that consultation must take place with a view to reaching agreement. Legislation does not require agreement to be reached, but consultation will be in good faith with a view to reaching agreement.

There is a statutory duty to notify the Department of Business, Innovation and Skills when more than 20 redundancies are to be made using form HR1 which will also be sent to authorised representatives.

The Human Resources department will, where appropriate, write to regional and national offices of the relevant trade unions providing them with copies of the HR1 and Section 188 notices.
Human Resources will seek to commence consultation when the proposals are still at an early stage ie before the actual decision to dismiss for redundancy has been made.

Collective consultation should have ended before any dismissal notices are issued.

Consultation will include provision, in writing, of the following information:

- The reason for the proposed redundancies
- The number and categories of employees whom it is proposed to dismiss as redundant
- The total number of employees of any such description employed
- The proposed method of selecting employees who may be dismissed (if any)
- The proposed methods of carrying out the dismissals (if any)
- The time period over which the dismissals may be carried out
- The proposed method of calculating any redundancy payments (if known)

Consultation will be with a view to reaching agreement about:

- The best method of achieving NCG’s objectives
- Ways and means of avoiding the redundancies
- Ways of reducing the number of redundancies
- Ways of mitigating the consequences of the dismissals
- The appropriate selection criteria to be applied and the application of the selection criteria to particular individuals

15. Group Consultation

Human Resources will co-ordinate communications about the proposed changes and the delivery of group consultation meetings at which the relevant member of the Divisional SMT or Divisional SLT, or their nominated deputy, will present the proposed reorganisation. The aim of the group consultation will be to identify ways and means of avoiding the redundancies; ways of reducing the number of redundancies; ways of mitigating the consequences of the dismissals; the appropriate selection criteria to be applied and the application of the selection criteria to particular individuals

In addition to or, where appropriate, instead of group consultation, consultation will take place with the individuals at risk during which they may be accompanied by their Trade Union representative or a work colleague.

16. Individual Consultation

The relevant member of the Divisional SMT or Divisional SLT, or their nominated deputy, will arrange to meet with staff, on an individual basis, to advise them of the outcome of the selection process. Staff will be
shown details of their own rating against each of the assessment criteria and also the range of scores of other staff in the selection pool. Where appropriate, an estimate of the redundancy benefits will be provided, and discussed with, the employee. A member of Human Resources will be present at this meeting and the member of staff will have the right to be accompanied.

17. Dismissal

If dismissal due to redundancy is still being considered the member of staff will be invited to a meeting with the relevant member of the Divisional SMT, Divisional SLT, or equivalent to consider whether dismissal is appropriate or some other option is available.

The member of the Divisional SMT, Divisional SLT or equivalent will endeavour to decide on the outcome of the meeting within 10 working days and will explain the reason for the decision. If the outcome is a decision to dismiss, this will be confirmed in writing to the employee, specifying the reasons for dismissal. This letter will confirm the date on which the employment will terminate, the appropriate period of notice and the right to appeal against the outcome. The member of the Divisional SMT, Divisional SLT or equivalent may decide not to dismiss and will write to the employee explaining the reasons for this.

The Head of Human Resources or their representative must be informed of all cases where dismissal is being considered.

18. Appeal against Dismissal

If an employee considers that the decision taken is unfair they may lodge an appeal. The appeal should be made in writing to the Head of Human Resources, and be received within 10 working days of the date of the letter confirming the outcome of the meeting.

The letter must give full details of the grounds on which the appeal is being made.

The employee will be notified in writing, of the intention to hear their appeal, giving them a minimum of 5 working days’ notice of the meeting date. The appeal will normally be heard within 10 working days of receipt of the appeal, by an authorised manager not directly involved in the original decision. The appeal against dismissal will be heard by a designated Senior Postholder. If working conditions make this impractical, it will take place as soon as possible thereafter. Any delays will be explained in writing.

Records and access to all relevant documentation of the redundancy selection process being appealed against will be made available to the person chairing the appeal.
After careful consideration of the grounds for appeal, a decision will be made.

The decision could be to:

- Uphold the original decision.
- Overturn the original decision.
- Make an alternative recommendation.

The manager chairing the appeal will endeavour to confirm the outcome in writing within 10 working days following the meeting. The decision from the appeal meeting will be final and binding.