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Premature Retirement & Redundancy Policy & Procedure for Teachers

1. Purpose

The Teachers' (Compensation for Redundancy and Premature Retirement) Regulations 1997 and the Teachers' Superannuation (Amendment) Regulations 1997 set out the mandatory and discretionary payments which may be made to teachers who are members of the Teachers' Superannuation Scheme, in circumstances where their employment is terminated in the interests of efficiency. In practice the term "interests of efficiency" covers two sets of circumstances.

- > dismissal by reason of redundancy (whether or not the teacher volunteers for selection);
- > termination of employment with the teacher's agreement in circumstances of restructuring or reorganisation, or other circumstances approved by the Department for Education and Employment, which do not meet the statutory definition of redundancy set out in Section 11 of this policy.

2. Under the terms of the Education Act 1996 (formerly the Education Reform Act 1988) Trusts and Local Governing Bodies are authorised to make decisions about whether and/or how to use the discretions contained in the regulations cited at 1.1 above. The Trust is the "compensating authority" which pays both mandatory and discretionary compensation. Under the terms of the Education Acts 1996 and 1997, and Trust's Scheme of Delegation, the costs of premature retirement are met from a school's budget share except where it is agreed with a Locality Committee that they shall be met from a different budget retained by the Trust for that purpose.

3. The purpose of this policy is to set out for schools:

- > the circumstances under which the Trust will accept centrally the cost of any mandatory payments to which teachers retiring in the interest of efficiency are entitled;
- > the extent of discretionary payments which it will meet;
- > in the case of dismissal by reason of redundancy the basic procedural requirements which the Trust expects Locality Committees to take to ensure that any dismissal will be regarded as fair and not, therefore, susceptible to successful appeal to an industrial tribunal.

4. Application of the Policy

The Board has approved the following policy to operate with effect from 1 January 2017.

The policy applies to all teachers who are employed by the Trust under a permanent contract of employment in accordance with the terms of employment determined by the School Teachers' Review Body. These employees are normally members of the Teachers' Superannuation Scheme. It does not apply to temporary employees as defined in Section 9 of this document.

Where a teacher is dismissed by reason of redundancy, the policy of the Trust is to award compensation up to the level set out in Section 3 of this policy. The costs of compensatory payments made to teachers dismissed by reason of redundancy will not be charged to a school's delegated budget, provided that the Trust's substantive and procedural requirements, as set out in Sections 4, 5, 6 and 7 of this policy, have been met, and that the advice of the Chief Executive Officer has been sought and followed.



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The Trust's policy in respect of teachers who retire prematurely in the interests of efficiency, in circumstances which do not constitute redundancy, is set out in Section 8 of this document. The costs of any compensatory benefits associated with such retirements will normally be met from a school's delegated budget; unless the Chief Executive Officer agrees in writing that they should be met from elsewhere.

Sections 9 of this document contain definitions and explanatory notes.

Premature retirement on the grounds of permanent ill-health, which is covered by separate procedures, is excluded from this policy.

5. REDUNDANCY

5.1 Compensatory Benefits on Redundancy

Any teacher dismissed by reason of redundancy, as statutorily defined, and who has at least two years' continuous service as defined in the appropriate orders and regulations, must receive a **redundancy payment** calculated according to his/her entitlement as set out in the Employment Rights Act 1996 or successor legislation. The amount of a week's pay for the purposes of calculating this entitlement is limited to a statutory maximum of £210.

The Teacher's (Compensation for Redundancy and Premature Retirement) Regulations 1997 (Paragraph 5) allow a severance payment (which includes any statutory entitlement to a redundancy payment) to be calculated on the basis of an actual week's pay where this is greater than the statutory maximum amount of a week's pay referred to in 3.1 above. The Trust's policy is to make a **severance payment** (to include any statutory entitlement) based on actual week's pay without applying the statutory maximum. The number of weeks' pay used to determine the payment must be that set out in the Employment Rights Act 1996 or successor legislation.

The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997 (Paragraph 6) make provision for payment of **extended lump sum compensatory payments** in respect of termination of employment. This includes any redundancy or severance payments to which an employee is entitled as set out in 3.1 and 3.2 above. Where an employee is aged 55 or over, these extended compensatory payments are an alternative to payment of superannuation benefits (see 3.4 and 3.5 below).

- 5.2 **The Trust's policy does not include the use of these provisions.** Any Locality Committee which determines to make use of these provisions must bear any cost additional to the severance payment set out in this document, from its school's budget share.
- 5.3 A teacher who has attained the age of 55 and who is dismissed by reason of redundancy is entitled to receive payment of a premature retirement pension from the Teachers' Superannuation Scheme calculated according to his/her reckonable service. The Trust is required to contribute a proportion of this "basic" pension as set out in paragraph 7 of the Teachers (Compensation for Premature Retirement) Regulations 1997. The Trusts' policy is to contribute the employer's share of the teacher's basic pension without additional enhancement.
- 5.4 The regulations make provision for service on which the basic pension is calculated (see 3.4 above) to be enhanced by added years. The Trust's policy does not include the use of this provision. Any Locality Committee wishing to make use of this discretion must bear any cost of awarding added years from its school's budget share.



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5.5 A teacher who is aged 60 or over, but under 65, at the time of his/her dismissal by reason of redundancy will be entitled to receive a severance payment as set out at paragraph 3.2 and the superannuation benefits due on normal retirement from the Teachers' Superannuation Scheme.

5.6 Meeting the Costs of Redundancy Compensation

The Trust will normally meet the costs of redundancy compensation set out in Section 3.2, 3.4 and 3.6 above (i.e. a severance payment and, where applicable, the employer's share of the teacher's basic pension) from a budget other than the school's own delegated budget, where the Chief Executive Officer is satisfied that:

- > any and every dismissal for redundancy results in an overall reduction in the total complement of teaching staff at the school (and provided that there is no consequential increase in non-teaching staff);
- > the school has taken all reasonable steps to avoid redundancy via its planning process as required in Section 5 of this document;
- > the Trust's procedural guidance, as set out in Section 6 below, has been followed.

5.7 In the following cases the Chief Executive Officer may consider that the total costs of redundancy compensation should be charged to a school's delegated budget:

- > where the school is unable to offer evidence of planning for future staffing requirements;
- > where there is no resulting overall reduction in the number of teaching staff employed at the school;
- > where a redundancy results from a governing body's proposals for restructuring initiated primarily to achieve greater efficiency or effect a cost saving solely within the school;
- > where a school has significantly exceeded its notional LMS formula staffing entitlement, particularly during the year prior to the proposed date of redundancy, by continuing to recruit to vacant or additional posts on its establishment, or otherwise incurring additional salary costs, and is unable to offer such alternative evidence of planning for a sustainable level of staffing as the Chief Executive Officer may accept;
- > if courses of action other than redundancy have not been fully explored, especially where retraining or redeployment within the school could be offered.

5.8 Without prejudice to the right of each governing body to determine the number and type of staff employed in its own school the Chief Executive Officer, in considering whether it is reasonable for the costs of redundancy compensation to be met from the school's delegated budget, reserves the right to consider a school's overall financial position, including any year end balances in excess of a reasonable reserve for contingency.

5.9 Where a Locality Committee determines to award compensatory payments higher than those set out in the Trust's policy (see Section 3 above), the cost of additional payments over and above the Trust's policy will be charged to the school's delegated budget. The Chief Executive Officer may determine that all costs, both one off and on-going, including those normally met from a budget other than the school's delegated budget, must be met from the school's delegated budget.



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6.0 PROCEDURAL REQUIREMENTS ON REDUNDANCY

6.1 Planning:

It is a requirement of this policy that schools should plan their staffing requirements well ahead in the light of known information, especially present and projected pupil numbers, and the formula staffing level upon which the school's budget share is based. Where a school has significantly exceeded recommended staffing levels, or has failed to take action to make any necessary reductions through natural staff turnover, and subsequently dismisses a teacher by reason of redundancy, the Chief Executive Officer may determine that the costs of compensatory payments should be charged to the school's delegated budget.

6.2 Schools should review their Academy Improvement Development Plan annually. This will enable Locality Committees to carry out the necessary forward planning on the basis of the school's curricular and financial policies for 2-3 years ahead. In particular this should identify the school's likely teaching and managerial staffing needs in the next financial and academic year.

6.3 Procedure:

Where the need for a staffing reduction at the end of the school year has been identified as being likely or necessary, the Locality Committee should consider, preferably during the autumn term, whether the reduction can be achieved through normal staff turnover or by internal reorganisation within the school.

If it appears unlikely that the necessary staff reduction can be achieved in the course of normal staff turnover, the Locality Committee should prepare a proposal to dismiss by reason of redundancy the number of teachers by which it considers the school is or will be overstaffed. An appropriate representative of the Chief Executive Officer must be invited to attend any meeting of the Locality Committee or a committee of the Locality Committee at which such a proposal is to be considered. The process of implementation should be delegated to an appropriately constituted committee of the Locality Committee.

6.4 The proposal to effect dismissals by reasons of redundancy should be set out in writing to the recognised teachers' associations and communicated to the teaching staff of the school in writing and/or at a meeting convened for that purpose. The Chief Executive Officer (or his designated representative) will advise on the prescribed form of any letters of consultation. Consultation must start by the date recommended in the Chief Executive Officer's guidance as contained in Section J of the Schools' Personnel Manual, or at such other date as may be. The consultation should proceed with a view to reaching agreement, if possible, on:

- > avoiding the dismissals;
- > reducing the number to be dismissed;
- > mitigating the consequences of any dismissals;

6.5 Any teaching vacancies which arise during the course of consultation should not be filled on a permanent basis until the outcome of the proposed staff reduction process is clear, unless otherwise agreed in consultation with representative trade unions and the Chief Executive Officer.

6.6 The Committee of the Locality Committee should consider representations from both individual teachers and their associations and should respond to all representations in such a way as to demonstrate that all points of substance have been considered.



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- 6.7 Any teachers offering themselves voluntarily to be dismissed by reason of redundancy should be considered before any procedure of selection for dismissal is concluded. Volunteers need not be accepted if their leaving would not resolve the overstaffing situation. The acceptance of volunteers must be agreed with the Chief Executive Officer.
- 6.8 If no suitable volunteers are forthcoming, the selection committee of the governing body should draw up clear and fair criteria for the selection of those to be dismissed. Such criteria should be communicated to teachers in the school, especially to those who may thereby be deemed at greater risk of dismissal, and to their trade union representatives. Any representations about those criteria should be considered, and the criteria should be amended if appropriate.
- 6.9 Any teacher selected for dismissal has the right to make representations to the selection committee, or designated members of it, about its decision. He/she also has the right to appeal against that decision, if it is not modified as a result of representations, to an appeals committee of the Local Governing Body. Any appeals committee should consist of governors (at least three in number) who have not been involved in the selection decision.
- 6.10 At any stage a teacher selected for dismissal should be accorded the right to be accompanied or represented by a trade union representative, a friend or colleague of their choice. Locality Committee must follow the advice of the Chief Executive Officer as given from time to time during the procedure.
- 7.0 **Redeployment:**
- 7.1 Where teachers are displaced from their current post in a school, redeployment within the school should be considered as a first option. Vacancies which arise during a staff reduction exercise should not be filled from outside the school until the Chief Executive Officer has been satisfied that a teacher about to be displaced or whose job is at risk could not be considered suitable for the vacant post, or could not be otherwise accommodated by a reorganisation of staffing.
- 7.2 The Chief Executive Officer will use his best endeavours to redeploy to another school within the Trust a teacher whose post becomes redundant. Local Governing Bodies of schools with vacancies are asked to co-operate with this process and consider on their merits any teachers who are available for redeployment.
- 7.3 In order to facilitate redeployment and to assist schools offering a post to a redeployed teacher, the Trust is prepared to offer the following assistance in appropriate cases:
- > the reimbursement of reasonable expenses incurred in visiting any school (or other place of work) to which a transfer is possible'
 - > appropriate in-service education and training where this can be shown to be cost-effective;
 - > benefits under the Teachers' Disturbance and Travel Scheme;
 - > indemnifying the budget of the receiving school for up to four years against the additional cost of any salary protection due under the provisions of the School Teachers' Pay and Conditions Document.



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8.0 PREMATURE RETIREMENT IN THE INTERESTS OF EFFICIENCY

8.1 Premature Retirement Without Redundancy

Premature Retirement may be granted in circumstances which do not meet the statutory definition of redundancy, but where for example, a staffing adjustment or reorganisation is proposed. The relevant statutes and regulations allow the Locality Committee of a school with full management delegation to exercise the following discretions:

- > lump sum compensatory payments of up to 66 weeks' pay in defined circumstances (see paragraph 3.3 above); **or alternatively**
- > payment of premature retirement benefits based on the teacher's own reckonable service (see paragraph 3.4 above); **with or without**
- > enhancement of superannuation benefits by the award of added years (see paragraph 3.5 above).

8.2 In any case where it is agreed that the cost of premature retirement will be met from a budget other than the school's delegated budget, the Trust's policy is to grant premature retirement benefits based on the teacher's own reckonable service only (as described in paragraphs 3.4 and 8.1 (ii) above).

8.3 In allocating the Trust's annual budget for premature retirement and redundancy costs, priority will be given to meeting those costs arising from staff reductions as described in section 4 above. Subject to the availability of funding from the appropriate budget, the Chief Executive Officer may consider and approve applications from Locality Committees that a teacher or teachers should retire prematurely in the interests of efficiency. He may also consider and approve applications directly from or on behalf of unattached or other teachers who are employed under the control of the Trust.

8.4 After taking into account the costs of teaching staff reductions taking place at the end of the school year (i.e. at 31 August) and allowing for any possible costs arising at 31 December, the Chief Executive Officer will consider any applications from Locality Committees for premature retirement in the interests of efficiency **other than those necessitated by staff reductions**. Proposals for premature retirement must meet any criteria and conform to any guidance issued by the Department for Education. Locality Committee must also be able to comply with any monitoring and/or certification requirements laid down from time to time by the DfE.

8.5 Bearing in mind the DfE's requirements and the funding constraints referred to in paragraph 8.3 above, the Chief Executive Officer will normally apply this part of the Trust's policy according to the following criteria:

- > the teacher's age (teachers asking to be considered under these provisions should normally be aged at least 55 at the projected date of retirement and those closer to age 60 will normally receive preference);
- > the extent to which any loss of efficiency by the postholder has or could have a detrimental effect on the functioning of the school as a whole;
- > the postholder's state of health, for which an assessment by the Trust's Occupational Health Physician will normally be required;
- > subject to the considerations listed above, preference may be given to those with greater length of service with the Trust.



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- 8.6 These criteria may be refined or modified from time to time in consultation with the Chair of the Trust Board. Where the Chief Executive Officer gives his support to a proposal for premature retirement in the interests of efficiency he will indicate in writing that the costs will be charged to a budget other than the school's delegated budget.
- 8.7 If the Chief Executive Officer does not agree to fund a premature retirement in the interests of efficiency a Locality Committee may resolve to offer premature retirement to a teacher in the interests of efficiency on their own initiative, provided that their proposal meets any criteria laid down from time to time by the Department for Education. In these circumstances the full cost will be charged to their school's delegated budget.

9.0 DEFINITIONS AND EXPLANATORY NOTES

9.1 "Age" or "Normal" Retirement

It is Trust policy that all teachers should retire by the age of 65, unless it is in the interests of the Trust that the teacher should remain in service and he/she wishes to do so. Benefits from the Teachers' Superannuation Scheme are usually payable at age 60 and this is regarded as the normal retirement for teachers. However, a teacher who wishes to do so may retire at any age between 60 and 65, and receive immediate benefits from the Scheme.

On normal retirement teachers are entitled to receive benefits which consist of a lump sum retiring allowance and an annual pension, calculated according to the length of reckonable service of the teacher concerned. All costs of age retirement are borne by the Teachers' Superannuation Scheme.

9.2 Premature Retirement - Approvals Benefits and Costs

Premature Retirement is retirement before the normal age of eligibility - i.e. before age 60. Teachers must be aged at least 50 before they can be considered for premature retirement in the interests of efficiency. Premature retirement is governed by the Teachers' (Compensation for Premature Retirement and Redundancy) Regulations 1997 and the Teachers Superannuation (Amendment) Regulations 1997.

All proposals for premature retirement in the interests of efficiency which involve the allocation of the cost to a budget other than a school's delegated budget must be agreed in writing by the Chief Executive Officer. Locality Committee may also be required to complete additional certification for the DfE that the retirement meets its criteria.

Teachers, who retire in the interests of efficiency, other than on redundancy terms, leave by mutual agreement and are required to confirm this in any correspondence.

Teachers offered premature retirement in the interests of efficiency will receive a pension calculated on the basis of their length of reckonable service. The costs of payment of these benefits before normal retirement date are divided between the Teachers' Pension Scheme and the Trust, according to an actuarial calculation. The closer the teacher is to normal retirement age, (i.e. 60), the smaller is the proportion of the pension and lump sum which is charged to the Trust.



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Superannuation benefits are based on final salary in the period preceding retirement, normally the final year, but exceptionally the highest of the past three years. The Secretary of State for Education may reduce superannuation benefits where the final salary of a teacher has been increased in the period prior to retirement (normal or premature) with the object of increasing his/her superannuation benefits. Teachers' Pensions requests information on the exercise of pay discretion by Local Governing Bodies in the five years immediately preceding retirement.

9.3 **Redundancy**

For statutory purposes an employee is regarded as being dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to:

- > the fact that the employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or has ceased or intends to cease to carry on that business in the place where the employee was so employed;
- OR**
- > the fact that the requirements of that 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.

Any proposal to dismiss by reason of redundancy must meet one of these statutory definitions.

9.4 **Temporary Employment**

For the purpose of this policy, the term "temporary employees" includes:

- > those subject to fixed term contracts (which through a waiver in the contract may exclude the right to statutory redundancy payments if the appointment is for at least two years);
- > temporary appointments (which may also be for a fixed term) for a defined purpose, e.g. cover for long term sickness, maternity leave, etc.

It should be noted that open ended temporary appointments which extend beyond two years increasingly reduce the effect of the description "temporary". Where temporary appointments are made or continued contrary to the Trust's policy and advice (as set out in Section C of the School's Personnel Manual) and the teacher acquires statutory or "de facto" rights, the costs of compensatory payments will be charged to the delegated budget of the school concerned; temporary appointments funded by outside agencies and subject to the following wording (or similar) on the letter of appointment:

"This appointment is funded by (external source) and will continue for as long as this funding, or funding from any subsequent sponsors, is maintained. If the funding ceases the appointment will terminate automatically, and no formal notice will be given, nor will any redundancy compensation be paid."

9.5 **Advice of the Chief Executive Officer**

The term "Chief Executive Officer" includes any officer acting on his behalf who has the authority to advise Local Governing Bodies and Academy Heads in matters of premature retirement and redundancy. In most cases this will be the Finance and HR Manager. Academy Heads and governors should specifically enquire of any other officer from whom they seek advice, whether they are authorised to give that advice in these matters.



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ADDENDUM

Stepping Down Arrangements

Regulation C2 of the Teachers' Superannuation Regulations introduces a provision from September 1997 which allows a teacher aged 50 or over who has served in a post of responsibility for at least 5 years and who steps down to a post of lesser responsibility, whether with the same or a different employer, to protect his/her pension by electing to pay contributions on the former (higher) salary.

The national salary on which contributions will be paid will be index linked so that the teacher's eventual pensions benefits will be maintained.

The teacher will be responsible for meeting the additional cost of both the employer's and the employee's element where they are prepared to do so.

The Trust's policy is that the cost of maintaining pension benefits under this regulation should normally be borne by the teacher making the election of the Locality Committee of the school concerned (so far as the regulations permit and should it so resolve), unless the teacher concerned would otherwise be dismissed in circumstances where the Trust's policy indicates that the cost would not be charged to the school's budget.

In such circumstances where a stepping down arrangement would avoid a dismissal by reason of redundancy, the Chief executive Officer in consultation with the Chair of the Trust Board may determine whether or not some or all of the costs of a stepping down arrangement, which the employer may agree to pay, should be charged to the Committee's central budget for premature retirement and redundancy.



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Document Control

Changes History

Version	Date	Amended By	Details of Change

Approval

Name	Job Title	Signed	Date
Andrew Aalders-Dunthorne	Principal/CEO	Electronic signature	06/01/2017
Dawn Carman-Jones	On behalf of the Trust Board	Electronic signature	09/01/2017

Equality Impact Assessment

Date	Name	Details

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