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Director of Education

MANAGEMENT INFORMATION

SUBJECT:	Review of School Organisation
WORKING TITLE:	Code of Personnel Practice
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DISTRIBUTION:	Headteachers and Governors of all Schools in Norfolk
FOR SCHOOL USE:	
SUMMARY:	The attached Code of Practice sets out the principles and procedures for use in handling staffing adjustments arising from the school organisation review.
ACTION REQUIRED:	<ol style="list-style-type: none"> 1. To read the attached letter and Code of Practice. 2. To recommend adoption of the Code of Practice to the Governing Body. 3. To ensure all staff are aware of the Code of Practice.
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SCHOOL ORGANISATION REVIEW Exemplar Reorganisation 1

Situation

School where age groups changing, without formal closure or Public Notices - 30 pupil reduction.

Process by School

1. Draft budget received for changed school based on anticipated number on roll.
2. Financial plan drawn up, reflecting revised requirements and including Staffing Plan.
3. Comparison made between existing staffing and proposed Staffing Plan, including on the demand side:
 - changes generated by revised curriculum requirements
 - total pupil numbers
 - organisational requirements
 - management requirements

and on the supply side:

 - expected natural wastage
 - significant temporary absences, eg maternity absences.
4. A judgement needs to be made as to the extent of the change in requirements for the changed school and whether this could be achieved within the existing staffing or not, and if not whether the change can be achieved by a combination of staff adjustments and revised job descriptions. Discussions firstly with the governors and secondly with the staff likely to be affected should take place to inform the judgement and “slotting in” will be used as the primary first step. Assuming that the number of management level posts remains the same, in this case revised job descriptions and one teaching reduction would be necessary, the following process would be likely to apply:
 - (i) counselling and personal support would be offered to all staff affected.
 - (ii) seeking volunteers for redeployment or premature retirement and fully exploring these;
 - (iii) if no solution found under (ii) above, governors declare a potential redundancy formally to the recognised Trade Unions and undertake a period of consultation;

Likely timescale

SCHOOL ORGANISATION REVIEW Exemplar Reorganisation 2

Situation

A school is closed with or without movement of pupils to another school.

LEA/Administrative Process

- (i) formal recommendation of governing bodies for closure/amalgamation to LEA;
- (ii) report to Education Committee to seek authorisation for public consultation;
- (iii) issuing of consultation document. 6 weeks public consultation including public and staff meetings;
- (iv) Education Committee considers outcome of public consultations and determines upon whether to proceed;
- (v) publication of statutory notices; beginning of 2 months' period for statutory objections;
- (vi) expiring of period for objections; if no objections the matter to be determined by the Education Committee. If there are objections the LEA has one month in which to forward to Secretary of State for decision;
- (vii) decision of Secretary of State (if needed);
- (viii) creation of temporary governing body for new school.

**Likely
timescale**

Implementation of Change by School

1. Draft budget received for changed school based on single school and anticipated number on roll.
2. Temporary governing body, supported by LEA officers, draw up financial plan, reflecting location of pupil age groups and including Staffing Plan.
3. The Staffing Plan would take account of the size of the new school and the management, support staff, and teaching resources required on each site.
4. Given that the existing schools are to be closed, it would be necessary for each school to declare a staffing adjustment situation for all staff to the recognised trade unions - in practice this would be taken forward by the LEA on behalf of the governors.
5. Within the formal declaration of the staffing adjustment situation would be the proposal to make appointments to the new school, including time lines and including:

SCHOOL ORGANISATION REVIEW

REDEPLOYMENT

1. MAIN PRINCIPLES

1.1 Redeployment is the process of seeking a suitable alternative post for a member of staff who cannot continue in his/her post, usually as a result of redundancy. Under the LEA's normal Staffing Adjustment Policy (SAP), schools are encouraged to find jobs for staff at risk of redundancy and to consider redeployees. The main principles that apply are:

- schools needing to lose staff are encouraged to take an active role in finding other suitable employment for those at risk of redundancy;
- a suitable alternative post (not necessarily ideal) is sought with a reasonable match of skills, abilities and personality;
- the LEA will offer funds to schools willing to accept a redeployee (see 3.3 below);
- cost effectiveness against other alternatives will be an important consideration.

1.2 In the case of major LEA-led school reorganisation, the normal LEA redeployment procedures will be enhanced in that:

- the LEA will be proactive in monitoring vacant posts to identify redeployment opportunities and will act as a clearing house for matching employees willing to consider redeployment with apparently suitable vacancies in schools not directly affected by the reorganisation or other LEA establishments;
- the LEA will, in appropriate circumstances, ring-fence new posts in a school or group of schools directly affected by reorganisation so that staff from those schools will receive prior consideration for appointment. In this context, "prior consideration" means that a decision on the suitability of those staff for appointment to the new posts will need to be taken before any further recruitment can take place. (NB. Where a school is formally closed by means of a Public Notice and then "reopened", ringfencing cannot be applied in the case of Headteacher and Deputy Headteacher posts which, under the Education Act 1996, have to be advertised nationally.)
- the LEA will offer a degree of protection for employees accepting redeployment as an alternative to redundancy as a direct result of the reorganisation.

2. PROCEDURE

SCHOOL REORGANISATION

EXAMPLE SCHOOL

APPLICATION FOR APPOINTMENT/REDEPLOYMENT

1. PERSONAL INFORMATION - Please complete in typescript or black ink

Full Name:

Address:

.....

Home Telephone No:

CURRENT POST

School:

Post:

Telephone No:

RELEVANT PREVIOUS EMPLOYMENT/EXPERIENCE (most recent first)

Employer	Post Title	Dates
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SCHOOL ORGANISATION REVIEW

PREMATURE RETIREMENT

1. MAIN PRINCIPLES

- 1.1 Premature (or early) retirement in this reorganisation is retirement before the normal retirement age or “in the interests of the efficient discharge of the employer’s functions” to avoid a redundancy situation. Premature retirement is not permitted before the age of 50, (although younger employees may be allowed retirement benefits on the grounds of long term health problems).
- 1.2 The authority to decide whether to award premature retirement lies with the governing body (as the ‘Deciding Authority’). The LEA (as the ‘Compensating Authority’) funds the retirement. However, the LEA will only support a premature retirement if:
- “slotting in” and/or redeployment is not possible;
 - it avoids compulsory redundancy and ...
 - the premature retirement is cost effective in the context of the reorganisation planned.

The LEA would normally expect premature retirement to be agreed with no enhancement. If not, the school will be liable for any costs incurred.

- 1.3 Under the LEA’s normal Staffing Adjustment Policy (SAP), schools are encouraged to seek volunteers for premature retirement as one way of avoiding compulsory redundancy. It is these circumstances which may arise during a major school reorganisation. In such cases, applications can normally be considered from any employee aged 55 or over. Exceptionally, staff aged 50 to less than 55 will be considered .

2. PROCEDURE

- 2.1 Education Personnel Services will write to all the schools affected asking them to seek applications for early retirement. The initiative for an individual to take premature retirement may come from the employee, or the Head/governing body.
- 2.2 Headteachers will forward the names of all members of staff applying for, or interested, in early retirement to Education Personnel Services who will send each employee named an estimate of pension benefits. This is an estimate only, as final calculation will be undertaken by the appropriate awarding authority (the DfEE in

SCHOOL ORGANISATION REVIEW

REDUNDANCY

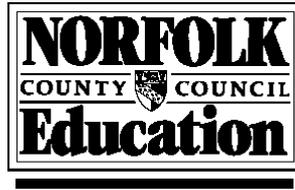
1. MAIN PRINCIPLES

- 1.1 Redundancy involves dismissal. Redundancy is defined as occurring where the employer's need for employees to carry out work of a particular kind, or in a particular place, has ceased or diminished, or is about to cease or diminish. It may also include dismissals arising from a restructuring of work, as in the case of the current round of school reorganisations, or terminating and re-engaging staff on different terms and conditions.
- 1.2 The law places a wide range of obligations on an organisation which dismisses an employee as redundant. Employees, and in some cases their trade unions or other representatives, have particular rights in these circumstances, and means of seeking redress through Employment Tribunals. In respect of some of these, a governing body could be the respondent to the case before the Tribunal.
- 1.3 It is the County Council's policy to avoid compulsory redundancy wherever possible and the LEA will seek volunteers for redundancy at an early stage of any major LEA-initiated school reorganisation.
- 1.4 In purely legal terms, there is no such thing as voluntary redundancy. In effect, the individual has volunteered or agreed to be dismissed on the grounds of redundancy, but it is still a dismissal. An individual who has consented to be made redundant has the same employment protection rights as an employee being made redundant compulsorily.
- 1.5 When, having used all the voluntary ways of achieving staffing adjustments, compulsory redundancy is unavoidable, the LEA will compensate those employees affected by the payment of redundancy pay and, for employees aged 50 or over, by giving early access to pension benefits.
- 1.6 Employment law requires that employees are selected for redundancy fairly. In a major school reorganisation, selection for redundancy will be by non-appointment to a post in the reorganised school structure. The LEA will require schools to use an appointment process that ensures fairness in selection. However, it is the intention to adopt a process which causes as little disruption as possible. Exemplars of alternative processes are set out in Appendices 1 and 2.
- 1.7 Employment law also requires that, for any dismissal to be fair, it should normally start with a procedure which includes consultation with the staff concerned.

SCHOOL ORGANISATION REVIEW

GRIEVANCE PROCEDURE

1. This Grievance Procedure will be available, and is intended to apply specifically to situations where an employee is dissatisfied with the application of the procedures in the reorganisation. It is not intended as a means of re-examining the suitability of any applicant for a given post.
2. Staff should lodge any grievance in writing within 5 working days of receiving confirmation of the outcome of the appointments procedure, stating the grounds.
3. All staff have the right to seek a personal meeting with the Headteacher and a representative from the LEA if required to discuss procedural arrangements, and it is anticipated that most difficulties will be resolved in this way. At any meeting called for this purpose, the employee may be accompanied by a friend or representative of her/his Union/Professional Association.
4. If any grievance cannot be resolved through these informal means, a Grievance Panel will hear the appeal.
5. The Grievance Panel will consist of members of the governing body and an Officer from the LEA to advise if required.
6. The member of staff will be given the opportunity to submit a written statement in support of their appeal, in advance of the hearing.
7. Appellants will be notified of the outcome of the appeal as soon as practicable after the hearing.
8. It is intended that the above procedure takes place before the next stage of appointments.



SCHOOL ORGANISATION REVIEW

CODE OF PRACTICE

A. GENERAL PRINCIPLES

1. Introduction

- 1.1 It is recognised that any organisational review is both an unsettling and challenging time for staff. Although the aim of any change will be to bring benefits for Norfolk schools, it is inevitable that staff will feel vulnerable during the transition period, including a period after a change has taken place.
- 1.2 In order to develop this Code of Practice, consultation has taken place with the partners involved including Norfolk LEA, Church of England and Roman Catholic Diocesan Boards of Education, the Governors' Network, the representative forums for employers, Primary and Special Headteachers (PASH) and Norfolk Association of Secondary Headteachers (NASH) and employer/employee consultative committees for teaching and non-teaching staff who are represented by the recognised trade unions.
- 1.3 The intention of this document is to establish clear principles which will be applied when dealing with this LEA-led review. In this respect, the Code of Practice will bring together, draw upon or refer to a number of other documents, particularly the LEA Staff Adjustment Procedure recommended for use in schools.
- 1.4 The principles in this Code of Practice and the attached Appendices apply to teaching and non-teaching staff alike, except where otherwise stated by

virtue of differences in conditions of service.

2. **Scope**

This document applies to teaching and non-teaching staff employed for the purposes of the school only. It will not apply to employees on temporary, casual or fixed-term contracts, unless full employment rights have already or will have been accrued by the time any change is implemented.

3. **Commitment**

3.1 The objective of the school organisation review is to improve standards of education for Norfolk pupils. The LEA recognises the contribution that the skills and experience of existing staff will make to achieving this objective. It therefore reaffirms its existing policy that it will seek to avoid compulsory redundancy wherever possible.

3.2 The LEA will also support the process of appointment in a way which:

- reflects the curricular and other needs of schools
- ensures fair and equitable treatment for all staff
- is sensitive to the professional career and individual needs of staff affected.
- is cost effective to the LEA and its schools

3.3 Where appropriate and possible, and in consultation with governing bodies and trade unions, it will therefore seek to:

- establish an agreed timetable for the appointment of staff
- impose limitations on recruitment

- maximise the use of natural staff turnover and use other measures, including redeployment and premature retirement, to effect staffing adjustments
- reallocate to employees work done by agency, casual and other temporary staff.

4. General Principles in the Employment of Staff

4.1 The Norfolk Education Authority is the formal employer of staff in county and controlled schools but recognises that in schools with delegated powers as set out in the Education Act 1996, the governing body has wide powers in the appointment and dismissal of staff.

4.2 For staff in voluntary aided and grant maintained schools, the employer is the governing body. Although the fundamental principles of this Code of Practice apply to these schools also, this legal difference does mean that there are minor technical differences in procedure (eg in relation to dismissal) which affect the Appendices. Where this applies, the relevant paragraph or sentence is marked “VA/GM”.

(Note: Grant maintained schools will become foundation, voluntary aided or community schools from 1st September 1999. Foundation schools will be the employer in relation to these procedures. Community schools will be mainly former LEA schools where the LEA is the employer. VA schools will continue to be the employer.)

4.3 For each proposed review, the Norfolk Education Authority will aim to achieve full agreement with all the governing bodies involved in the processes to follow this code of practice. However, if any school governing body decides not to follow this code of practice and incurs additional costs for the LEA, then these costs may be charged to the budget of the school concerned.

5. TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS (TUPE)

- 5.1 In the case of changes such as amalgamation, currently the main legislation to consider is the Transfer of Undertakings (Protection of Employment) Regulations 1981, commonly referred to as TUPE.
- 5.2 Employees would be able to claim unfair dismissal if dismissed because of a transfer or a reason connected with it, unless the employer can show an economic, technical or organisational reason entailing changes in the workforce of either the transferee or transferor.
- 5.3 The TUPE Regulations and the Acquired Rights Directive which was adopted in 1977 by the European Community comprise a complex area of law and have been interpreted in different ways by the courts in the UK and Europe. Because of this it is intended that at each proposal to consider major organisational change, the Director of Education or his/her representative will seek legal advice as to whether or not the TUPE Regulations apply in the circumstances and will notify the appropriate Diocesan Director of Education or his/her representative in the case of a voluntary aided school or the Chairman of the governing body in the case of a grant maintained school.

B. PRACTICAL IMPLEMENTATION ISSUES

1. Appointments Process

- 1.1 A timescale related to each reorganisation will be published and circulated to all relevant partners in advance. Recognised trade unions will be consulted over the exact timescale and nature of the appointment process for each reorganisation which will depend on the type of reorganisation.

For example, the reorganisation of an existing first/middle school to a 4-11 primary school will almost certainly only require the internal reorganisation of an existing school using the existing governing body and Headteacher.

This can be done within a shorter timescale than, say, the creation of a new school or schools from existing schools, which will almost certainly require a new governing body and a national advertisement for the Headteacher's post.

- 1.2 Once the nature of the reorganisation is known, and the budget for the school, the governing body, in consultation with the Headteacher and Education Personnel Services, will need to set the curriculum and organisation for the school that best meets the learning needs of the pupils in the new or reorganised school. The organisation for the school will need to cover the number of posts and salary levels within the budget allocated. (Further detailed exemplars of appointment processes are set out at Appendices 1 & 2).
- 1.3 It will be a requirement that where new posts are established, new job descriptions will be drawn up and from these person specifications will also be drawn up which establish the essential and desirable criteria on which appointments will be made. Desirable criteria will only be used where two or more staff meeting the essential criteria have expressed an interest in the same post.
- 1.4 In order to minimise the disruption to schools, where a post in the new structure is directly comparable with an existing post, the existing substantive postholder will be offered the new post usually without interview as a "successor post". This process is called "slotting in" for the purposes of this Code of Practice.
- 1.5 In order to promote fairness and accountability, the LEA will provide support to the appointments process to facilitate this approach.
- 1.6 Consideration should be given as to whether appropriate training would enable a candidate to meet the essential criteria of the specification in a reasonable period of time, and therefore immediately be deemed to be appointable.
- 1.7 A programme of training will be made available for all employees who will have new or different duties as a result of a school reorganisation.

2. Protection of Staff

- 2.1 Every effort will be made to avoid redundancies and follow the strategies set out in Appendices 3, 4 and 5 which accord to the Authority's model Staffing Adjustment Policy for staff employed in schools.
- 2.2 Avoidance of redundancies should be reflected in each school's own redundancy policy.
- 2.3 Whilst every effort will be made to maintain the status of individual members of staff, this cannot be guaranteed.

3. Alternative Employment

- 3.1 The Education Authority will endeavour, with the co-operation of governing bodies, to find suitable alternative employment for staff under threat of dismissal on the grounds of redundancy. Appendix 3, which accords to the Authority's Staff Adjustment Procedure for School Staff, contains details of special arrangements for employees who volunteer for redeployment or whose posts are at risk of redundancy.

4. Salary Safeguarding/Excess Travel

- 4.1 Where employees are offered alternative posts within Norfolk Education Authority but at a lower substantive grade, reference should be made to Appendix 3, which accords with the Authority's Staff Adjustment Procedure for School Staff. The document also contains details of excess travelling expenses.
- 4.2 Salary safeguarding arrangements for teaching staff are described in detail in the School Teachers' Pay & Conditions Document.
The Document currently provides that, in school closure or reorganisation situations, safeguarding is mandatory. In other circumstances, safeguarding is

discretionary, but the Authority “..... shall not unreasonably refuse to exercise their discretion in this matter in favour of the teacher.... “.

- 4.3 The County Council’s current policy for safeguarding non-teaching staff salaries in a reorganisation is that safeguarding will be offered for up to a maximum of 2 grades difference between previous and new post, and for a maximum period of 3 years.
- 4.4 In all cases there is an expectation that governing bodies and employees will move towards assimilating the employees into the school staffing structure at a substantive level commensurate with their actual salary.
- 4.5 Under the terms of the Norfolk LMS Scheme, the cost of the difference between the former salary and the substantive salary of the new post will be met by the Education Authority on a graduated scale from central funds for 5 years. After 5 years, however, any safeguarding would be met by the governing body.

5. **Ringfencing**

- 5.1 In appropriate circumstances and as a means to protect staff affected, the operation of ringfencing may be invoked by the Authority. Under these arrangements, permanent staff at risk in schools in the area under review would be given first consideration for appointment to posts in the reorganised structure.
- 5.2 Permanent staff from schools outside the reorganisation area who are at risk of redundancy will be given second priority consideration. Once the position of all permanent staff at risk has been resolved, the next consideration will be given to staff appointed on a temporary basis, pending the reorganisation.
- 5.3 Where a school is formally closed, by means of a Public Notice, and then reopened, the appointment to post of Headteacher and Deputy Headteacher are the exception to the provisions of 5.1 above, since, under the Education Act 1996, they have to be advertised nationally.

However, the LEA recognises the valuable contribution made by the skills and experience of existing Norfolk Heads and Deputies to the education of Norfolk children and would expect governing bodies to acknowledge this contribution when drawing up shortlists of candidates for interview.

6. Support for Staff

6.1 It is intended that the following support be available:

- (i) regular meetings for Headteachers with a nominated LEA Officer to support the school in managing the process;
- (ii) designation of a Personnel Consultant of the Authority as a contact point for staff;
- (iii) training and other professional advice and support for Heads, teachers, and governors from Norfolk Education Advisory Service;
- (iv) counselling services from the Norfolk Support Line;
- (v) individual discussions with a Personnel Officer of the Authority, accompanied by a trade union/professional association representative or a friend if they wish;

Discussion could cover the following areas:

- (a) alternative posts within the Education Service;
 - (b) alternative posts in other parts of the County Council service;
 - (c) any relevant training opportunities.
- (vi) reasonable paid time off for trade union members to attend workplace meetings with their trade union representatives.

7. Grievance

7.1 Every effort will be made to effect school organisational change fairly and equitably. However, it is recognised that grievances may arise. If it is not possible to resolve these by informal means, a mechanism to pursue any complaints arising from a misapplication of the arrangements to effect organisational change will be made

available through a separate review procedure. Details of the review procedure are set out in Appendix 6 which is based on the existing school's grievance procedure.

- 7.2 Other grievances should be raised through the school's own grievance procedure except where the school's redundancy policy is being applied, as this contains its own appeal process.

- 1.8 It is good practice and the expectation of the LEA that consultation with trade unions will take place in relation to any redundancy situation. It will ensure, through Education Personnel Services, that full and adequate consultation takes place with employees and recognised trade unions and that information on the school reorganisation is made available at all stages of the process.

2. PROCEDURE

2.1 Consultation

2.1.1 The law says that the consultation must begin in good time, which must be at least 30 days before the first dismissal takes effect. Education Personnel Services will work with governing bodies to initiate consultation in respect of the redundancy of staff employed to work at each school. Consultation must begin by writing to the officers of each of the unions recognised for the employees in question.

2.1.2 The consultation must be undertaken with a view to reaching agreement with the representatives and the written information to be given as part of the consultative process must include:

- the reasons for the proposal;
- the number and description of the employees to be made redundant;
- the total number of that description employed at the establishment;
- the proposed method of selection;
- the proposed method of calculating any compensatory payments in addition to statutory redundancy pay;
- the proposed dismissal procedure.

2.1.3 There must be consultation about:

- methods of avoiding redundancy dismissals; and
- ways in which the number and impact of redundancies could be reduced.

2.1.4 Education Personnel Services, on behalf of governing bodies, will consider any representations made by the trade unions, reply to those representations and, if any are rejected, give reasons for rejecting them.

2.1.5 Trade unions and employees may complain to an Employment Tribunal about any breach of these requirements and an Employment Tribunal can require the whole process to stop until the omission has been corrected.

2.2 Selection for Redundancy

2.2.1 In order that consultation with the trade unions is deemed as meaningful, selection for redundancy can only take place once the consultation period has been completed.

2.2.2 Factors which may be used as criteria in selecting an employee for redundancy are set out below:

- i) willingness to be made redundant (voluntary redundancy - see 1.4 above);
- ii) nature of contract – permanent employees, and fixed term employees with more than 2 years' continuous service, have higher priority consideration for appointments than employees in temporary or fixed term posts with less than 2 years length of service
- iii) criteria derived from the overall management and curriculum needs of the school which, for teaching staff, might include:
 - curriculum strengths;
 - range of subjects offered;
 - qualifications
 - experience (including specific INSET);
 - cost to Norfolk County Council of severance arrangements.
- iv) and then length of continuous service with Norfolk County Council (“last in, first out”), but only if the application of the above criteria does not achieve a selection.

2.2.3 Selection for compulsory redundancy should **not** be made on the basis of **capability** (professional/management/administrative/technical competence) or **conduct** as these individual issues should be addressed under different procedures.

Neither should selection be based on the following:

- ◆ race;
- ◆ gender;

- ◆ sexual orientation
- ◆ marital status;
- ◆ disability;
- ◆ political or trade union membership;

or on any basis that indirectly involves one of the above criteria.

2.2.4 Compulsory redundancy constitutes dismissal, so before a member of staff is identified for such compulsory redundancy, LMS Regulations provide that an individual must have the opportunity to make representations, including oral representations, before a decision is taken, and an opportunity to appeal prior to the decision being transmitted to the LEA. Furthermore, the Headteacher and, for LEA controlled schools, the Director of Education (or representative) must be present when such a decision is being considered.

VA/GM

2.2.5 Where a member of staff is identified in this way and wishes to exercise his/her right of appeal, the procedures followed will be similar to those recommended for appeals against dismissal on disciplinary grounds. This provides for the redundancy decision to be made by the Personnel Sub-Committee of the governing body and any appeal to be made to the Appeals Sub-Committee.

2.2.6 The decision to make a member of staff redundant involves a dismissal, and therefore needs a formal decision by a governing body's Personnel Sub-Committee on its behalf. If the member of staff is over 50 and is taking premature retirement that also needs to be part of the decision, particularly if there is any question of added years being awarded.

2.2.7 If a redundancy is not a voluntary one, it may be contested by the member of staff concerned who has the right to make oral representations to the Personnel Sub-Committee and to appeal to the Appeals Sub-Committee of the governing body before the decision is finalised and communicated to the LEA.

VA/GM

2.2.8 Once a decision has been made, the Head should communicate this in writing to Education Personnel Services, who will:

- i) write to the member of staff about the arrangements involved;
- ii) arrange for the processing of documentation in respect of termination of employment and redundancy pay.

2.2.9 An employee dismissed on grounds of redundancy is entitled to the period of notice provided by his/her contract or current employment legislation, whichever is the greater. Exceptionally, an employee may agree to waive all

or part of that, but that is the employee's decision. Also exceptionally, as an alternative to notice being worked, a governing body may decide to make a payment in lieu of all or part of the period of notice.

3. ENTITLEMENTS OF EMPLOYEES SELECTED FOR REDUNDANCY

3.1 Redeployment and Retraining

3.1.1 While a member of staff is under notice of dismissal on grounds of redundancy, he/she is entitled to reasonable time off with pay for job-hunting, interviews, and for arranging further training. Failure to allow this can be challenged before an Employment Tribunal. In such a case, the respondent would be the County Council rather than a governing body, but governing bodies would no doubt want to give maximum assistance to a member of staff in such circumstances.

3.1.2 If the member of staff under threat or notice of redundancy so wishes, the LEA would wish to help them search for another suitable job as an alternative to redundancy. If a suitable alternative job is offered within the County Council, the member of staff is entitled to a four week trial period and may then decline it as unsuitable without necessarily losing entitlement to redundancy pay. However, an employee who declines a reasonable offer of alternative employment without good cause may forfeit the entitlement to redundancy pay. Redeployment arrangements are described in more detail in Appendix 3.

3.2 Redundancy Pay

3.2.1 Members of staff with more than two years' continuous service are entitled to a redundancy payment on dismissal for redundancy. There are a number of exceptions to this, the most relevant being in respect of those staff whose service ends on or after their 65th birthday.

3.2.2 Payments are calculated on the employee's continuous employment. For employees who have continuous employment with a number of different LEA's (or local authorities), all of that service is counted. Each completed year of service, up to a maximum of 20, after the age of 18 counts for payment on the following scale:

- from age 41, but under 65: 1.5 weeks' pay
- from age 22, but under 41: 1.0 week's pay
- from age 18, but under 22: 0.5 week's pay

3.2.3 It is the practice of the County Council to use normal salary for redundancy

pay calculations. The County Council would normally advise governing bodies to agree to this but there will be situations where the County Council might not advise this (e.g. where a member of staff had refused an offer of suitable alternative employment). The decision to base redundancy pay on normal earnings is the decision of governing bodies. However, the LEA has the right to charge the cost to the school's budget share if this has been done without prior agreement via Education Personnel Services.

3.3 **Enhanced Severance Payments**

It is the LEA's policy to consider the payment of enhanced severance payments as an alternative to premature retirement for staff aged 45 up to 50. These payments need to be agreed by the governing body in each situation. The LEA will only agree to fund this payment if agreed in advance of a decision by the governors and where it is cost effective to the particular situation.

Payments are calculated on a similar basis to redundancy pay except that each completed year of service counts for payment on the following scale:

- from age 22, but under 41: 2.0 week's pay
- from age 41, but under 65: 5.0 weeks' pay, up to a maximum of 66 weeks

3.4 **Pay In Lieu of Notice**

3.4.1 Exceptionally, a member of staff may be given pay in lieu of notice rather than working their notice. Such a payment would normally be the amount that they would otherwise be paid over the notice period, and the advantage for the employee is that, strictly speaking, it is regarded as compensation for loss of office and therefore non-taxable.

3.5 **Legal and Financial Considerations**

3.5.1 It has never been the policy of the County Council to make "golden handshakes" or other severance payments not based on redundancy, or premature retirement regulations. It is also unlawful for a local authority to make severance payments in excess of those specified in the Local Government (Compensation for Redundancy) Regulations 1994.

3.5.2 With the one exception of pay in lieu of notice, the County Council would not regard as reasonable any severance payments outside of redundancy pay and premature retirement arrangements, and would charge the cost of any such payment to a school's budget share.

the case of the Teachers' Pension Scheme and the County Council's Director of Finance & Information in the case of the Local Government Pension Scheme). Normally, the finally agreed calculations are confirmed by the awarding authority in the period immediately following date of retirement.

- 2.3 Calculation of pension benefits depends upon final average salary and reckonable service.
Education Personnel Services will provide an estimate of pension benefits based on information available at the time. Confirmation of reckonable service will need to be obtained from the DfEE, and the Director of Finance & Information, and this may result in a revision to the estimate at a later date. This will be notified as soon as possible, but confirmation from the DfEE can take two to three weeks.

Although every effort is made to ensure the accuracy of estimates given, it must be emphasised that neither the LEA, nor the governing body can override final decisions made by the administrators of the appropriate pension scheme.

- 2.4 Irrespective of whatever informal discussions occur between the Headteacher, Education Personnel, and an individual applicant for early retirement, the Headteacher will need to obtain the formal agreement of the school's governing body to the retirement.
- 2.5 Exceptionally, however, a premature retirement may be contested by the member of staff concerned. Severance in these circumstances would constitute dismissal and the member of staff will have the right to make oral representations to the Personnel Committee of the governing body before a decision is made and the right to appeal to the Appeals Committee of the governing body if they are unhappy with the decision of the Personnel Committee.
- 2.6 Once the governing body has agreed the early retirement, the Head should communicate this in writing to Education Personnel Services, who will:
- (i) write to the member of staff concerned about the arrangements involved;
 - (ii) arrange for processing of documentation in respect of termination of employment and payment of retirement benefits.

3. OUTLINE OF BENEFITS PAYABLE

- 3.1 The relevant statutes and regulations allow the governing body of a school with full management delegation to authorise the following benefits for an agreed early retirement:
- (i) a lump sum enhanced "severance" payment (see Appendix 5 para. 3.3)
OR, alternatively.....
 - (ii) payment of retirement pension benefits, based on the length of service for which the employee has paid contributions

- 3.2 The County Council will normally only agree to the payment of enhanced severance payments or to fund early retirement for teaching staff without enhancement to the pension.
- 3.3 For non-teaching staff in the Local Government Pension scheme, current County Council policy is for employees to receive enhanced pension benefits if they are retired prematurely on either of the grounds in 3.2 above.

EDUCATIONAL/PROFESSIONAL/VOCATIONAL QUALIFICATIONS

Qualification

Date

I attach separate statements in support of posts for which I have applied.

Signed: Date:

2. STATEMENT IN SUPPORT OF APPLICATION

Applicant's Name:

Title of Post Applied For:

School:

Please indicate (on this side only) why you believe you match the requirements of the job description and person specification.

SCHOOL REORGANISATION

EXAMPLE SCHOOL

APPLICATION FOR APPOINTMENT/REDEPLOYMENT

(NB This part of the form will be used by EPS to administer your applications and will not be included in the documents sent to schools)

POSTS APPLIED FOR (in order of preference)

1.
2.
3.

and/or

NATURE OF REDEPLOYMENT SOUGHT (if applicable)

NAME: (Please print).....

Signed: Date:

- 2.1 When it has been established that an individual should consider or volunteer for redeployment, discussions will take place with the member of staff concerned on a preliminary basis.
- 2.2 The Head should counsel the member of staff about his/her qualifications and range of experience offered, the prospect for suitable vacancies arising, and provide some guidance on what opportunities might realistically be available, with assistance from Education Personnel Services if necessary.
- 2.3 The member of staff will be asked to complete a simplified application form (produced by Education Personnel Services) giving details of their qualifications and experience. The form will be designed in such a way that it can be used both for redeployment and for applying for vacant posts in the reorganisation.
- 2.4 The purpose of this is to:
 - help the employee to consider systematically the range of options available to them in the reorganisation;
 - provide the LEA with details which can assist with introducing the member of staff to a school with a vacancy that may prove suitable;
 - provide information in order that the LEA may manage the process of change as effectively as possible, including the approval of any subsequent redeployment benefits (see paragraphs 3 and 4 below).
- 2.5 To assist with transfer/redeployment, the application form should be sent to Education Personnel Services at County Hall who will arrange for its distribution to any appropriate schools, together with details of any possible redeployment benefits or arrangements. They will also send details of all appropriate vacancies to each redeployment candidate.
- 2.6 In addition, Education Personnel Services will, where appropriate, seek to redeploy employees into vacant posts elsewhere in the education service or in other County Council departments.
- 2.7 After circulation of details, receiving schools will be asked to contact the school which has to make a staffing adjustment.
- 2.8 Headteachers will be asked to liaise with each other concerning the suitability of the redeployee against the needs of the receiving school. Schools should consider any staff seeking redeployment before commencing recruitment from other sources. 'Considering' such staff means conducting at least a preliminary interview and possibly using whichever selection processes that school would normally use for appointment to the post in question. Where an appointment is not considered to be possible, written records of the reasons for this should be kept.

3. ASSISTANCE WITH REDEPLOYMENT

3.1 The LEA has agreed the following schemes in order to encourage the redeployment of staff. To qualify for any additional funding, all redeployments must be agreed by the LEA in advance of any potential arrangements and all decisions regarding funding for redeployment incentives will be judged on their cost effectiveness relative to any other factors involved, such as early retirement costs. Where “slotting in” takes place or staff are appointed to posts following interview, some of this assistance may not be available. Schools will need to check with Education Personnel Services the position for each situation.

3.2 Facilities to help schools accept a redeployee

3.2.1 Where a school accepts a redeployee a “settling-in” allowance of up to £10,000 can be paid by the LEA to the school’s budget for justifiable reasons. This cash sum could be used by the school for curriculum development, INSET, additional resources, or to employ additional supply help in order to maximise the contribution of the member of staff to the school.

3.2.2 Where a school accepts a redeployee on a salary higher than point 2 of the Teachers’ Scale, the school may be compensated by the LEA for up to 50% of the additional cost of the starting salary, for two years, calculated by the difference between salary point 2 and the redeployee’s normal starting salary. The compensation for protection of additional salary points would be on a ‘tapering’ basis, as set out under the LMS Scheme of Delegation. (A school would receive 100% protection of additional points for the first two years, 75% for the third, 50% for the fourth and 25% for the fifth. Protection arrangements would then cease as from the sixth year).

3.3 Facilities to help encourage staff to volunteer for redeployment

3.3.1 Where staff volunteer and are accepted for redeployment, one additional salary point can be paid for two years funded by the LEA as a recruitment/retention point. In addition, where a member of staff is eligible, excess travel payments can also be paid, for up to four years, at the LEA’s agreed mileage rates.

3.3.2 The training and personal development needs of redeployed teachers may need special consideration. The LEA will be able to provide advice.

4. SAFEGUARDS FOR EMPLOYEES

4.1 Financial Safeguards

- 4.1.1 The basic principle remains that employees are remunerated in a way that reflects the job undertaken. However, where redeployment of a teacher, for staffing adjustment reasons associated with school closure or reorganisation, is to a post at a lower grade, their existing salary level will be protected.
- 4.1.2 For non-teaching staff, redeployment for staffing adjustment reasons to a post at a lower grade will entitle the employee to salary protection up to a maximum of 2 grades for a period of 3 years.
- 4.1.3 Under the terms of the Norfolk LMS scheme, the cost of the difference between the former salary and the substantive salary of the new post will be met by the LEA on the same basis as in 3.1.2 above. In all cases, there is an expectation that the governing body and the individual redeployed will work towards assimilating the redeployee into the school staffing structure at a substantive level commensurate with their actual salary, ie the job description for the post will reflect the salary.
- 4.1.4 In addition, where a redeployed member of staff incurs additional home-to-work travel costs by virtue of their redeployment, excess travel payments will also be paid, for up to four years, at the LEA's agreed mileage rates.

4.2 **Other Safeguards**

- 4.2.1 Any employee who is under notice of redundancy has a statutory right to a trial period of at least 4 weeks in the new post without losing the right to a redundancy payment. A longer period than 4 weeks can be agreed for retraining purposes and this should be confirmed in writing from the outset. The length of the trial period will depend on the complexities of the job. In the case of a teaching post, a minimum of one term is appropriate and is subject to the normal resignation/notice deadlines.
- 4.2.2 It may be possible, on an interim basis, to redeploy an employee to cover a temporary vacancy or series of temporary vacancies, or to cover part-time needs in two schools which are within reasonable distance from each other. Where an employee is transferred to cover one or more temporary vacancies, this may affect his/her status and rights as a permanent employee and any implications, including financial ones, will be discussed with the employee before an agreement is concluded. An employee covering part-time needs in two schools under this paragraph will be entitled to payment of travelling expenses for the journey between the two schools and, where appropriate, to travelling time. The cost of any travelling expenses will be met by the LEA.

- appointment of Headteacher (and Deputy if appropriate) by external appointment
- Headteacher commences duty one term ahead of new school being opened and is involved in appointments of other staff

- other staff are appointed by “slotting in” or from within a ring fence (in the first instance).

**Likely
timescale**

6. Within the formal declaration of the staffing adjustment situation schools would also be seeking of volunteers for redeployment or premature retirement. However, where these are received, it may be necessary to delay any decision to approve until after the appointments have been completed in order that they are fully justifiable.
7. The temporary governing body appoints the Headteacher, following a national advertisement.
8. The Headteacher takes up appointment, preferably one term ahead of the opening of the new school.
9. The governing body, with advice from the new Headteacher, draws up job descriptions and person specifications for the new school.
10. Application forms and details of the posts are advertised internally, ie within the ring fence, with the exception of the deputy headship (if appropriate) which will be advertised nationally. As far as possible, appointments will be made on the principle of “slotting in”.
11. Interviews where necessary will be conducted and appointments made. (It is possible that one applicant only may apply for one post, eg caretaker, and if the appointment is suitable, then no interview will be necessary.)
12. Where an individual is unsuccessful in obtaining a post they will, by definition, be technically redundant and the governing body of their school will need to confirm this by formal means. Such an individual would be given an opportunity before an appeal group to contest the decision to dismiss.
13. Notification is given to LEA of redundancy. LEA gives written notice of redundancy in accordance with contractual requirements.
14. Search for redeployment continues until contract terminated.



- (iv) the Headteacher undertakes a skills audit:
- to determine whether changes in job description can be effected for both management and other posts
 - to inform any selection for redundancy;
- (v) having completed the consultation with Trade Unions and skills audit, Headteacher applies the redundancy criteria previously adopted by the governing body;
- (vi) the Headteacher informs the individual selected by application of the criteria;
- (vii) the selected individual is given an opportunity, with appropriate representation, to make 'oral representations' to the Personnel Committee of the governing body;
- (viii) if representations are unsuccessful an opportunity is given for an appeal to the Appeals Committee of the governing body;
- (ix) notification to LEA of redundancy. LEA gives written notice of redundancy in accordance with contractual requirements;
- (x) search for redeployment continues until contract terminated.

**Likely
timescale**



