

# Swift Academies

## Redundancy & Redeployment Policy

**Accepted by Board of Trustees:** November 2017

**Approving Body:** Board of Trustees

**Review Cycle:** 3 years

**Last reviewed:** November 2017

**Date for next review:** November 2020

### 1. Introduction

- 1.1 Swift Academies will seek to support its staff in sustaining employment and will endeavour to assist them in periods of change that may potentially result in a reduction in the number of posts within the organisation.
- 1.2 The Trust recognises that where it is required to undertake changes, which potentially could affect the employment of staff, or current contractual earnings there is a need to ensure that appropriate processes are followed and protection arrangements applied.
- 1.3 The application of this Policy will seek to ensure that:
- Employees are treated fairly and consistently;
  - Discrimination on any grounds will not be tolerated;
  - Meaningful and constructive consultation is undertaken with staff and Trade Unions on matters that may lead to a reduction in staffing or changes to contractual earnings;
  - Consideration is given to the potential impact of any redundancy proposal, on equality and diversity and employees on the grounds of any of the protected characteristics.
- 1.4 In recognising the need for effective working partnerships in such circumstances the Trust expects from its staff, the following:
- To display a positive and flexible acceptance of change;
  - To provide assistance in efforts to reduce surplus hours/jobs and avoid redundancy whenever possible;
  - To display flexibility in such situation(s) e.g. where reasonable, moves to different locations, job, and undertake appropriate development and training.

### 2. Definition of Redundancy

- 2.1 An employee who is dismissed will have been dismissed by the reason of redundancy if the dismissal is attributed wholly or mainly to the fact that:
- a. "The Trust has ceased, or intends to cease:

- to carry on the business for the purposes of which the employee was employed;  
or
- to carry on the business in the place where the employee was so employed”;

**OR**

- b. “The requirements of the business have ceased or diminished or are expected to cease or diminish for employees:
- to carry out work of a particular kind; or
  - to continue to carry out work of a particular kind in the place where the employee was employed”.

2.2 Additionally, employment case law details that a redundancy situation can arise if an employer decides to re-organise his/her business operations for economic and efficiency reasons. Thus, an employer may have the same amount of work and the same amount of income but, due to need for efficiencies, there may still be a requirement for fewer employee(s) to perform the same function and hence a redundancy situation exists.

**3. Consultation with Recognised Trade Union(s)**

- 3.1 The Trust recognises the benefits of early consultation with staff identified at risk of redundancy and Trade Unions and also recognises its statutory obligations to undertake meaningful and timely consultation.
- 3.2 Where individuals at risk of redundancy are members of a Trade Union(s) the Trust will engage in consultation with both the individuals and representatives of the Trade Union. Where the individuals at risk are not members of a Trade Union, the Trust will undertake any consultation directly with the member of staff. In such cases the member of staff may bring a work colleague to any meetings as part of the consultation process.
- 3.3 Where the pool of staff at risk of redundancy contains no Trade Union members the Trust will inform the recognised Trade Unions of the proposal for redundancies, however, there will be no formal consultation with the recognised Trade Unions, unless requested to do so by the Trade Union(s).
- 3.4 The Trust recognises that employment legislation only requires a Section 188 Notice to be issued where there are 20 or more redundancies proposed. However, the Trust will seek to provide the information contained in a Section 188 Notice for five individuals or more redundancies, to assist in the formal consultation with recognised Trade Unions in accordance with the Trade Union and Labour Relations (Consolidation Act) 1992. Where there are less than five redundancies proposed and the trade unions request a Section 188 Notice the Trust will seek to accommodate this request.

The Trust will supply in such instances:

- the reason for the redundancy proposals;
- the numbers and descriptions of employees whom it is proposing to dismiss as redundant;

- the total number of employees of that description employed by the Trust at the establishment in question;
- The number of agency workers temporarily working for and under the supervision of the Trust (including the area they are working in and the type of work they are carrying out);
- the proposed method of selection for the employees who may be dismissed as redundant;
- the proposed method of carrying out the dismissal with due regard to any perceived procedure including a period over which the dismissals are to take effect;
- the proposed method of calculating the amount of any redundancy payment made to the employee(s) who may be dismissed.

3.5 The Trust's minimum periods of consultation are:

- Up to 19 employees – there is no minimum period for consultation however, the Trust will provide time for meaningful and reasonable consultation.
- Between 20 and 99 employees at one establishment to be made redundant – at the earliest opportunity – at least 30 calendar days prior to any proposed dismissal.
- If the numbers are 100 or more, then a period of 45 calendar days or more will be given prior to any proposed dismissal.

3.6 The Trust, in formal consultation, will consult regarding ways of:

- avoiding the dismissals;
- reducing the number of employees to be dismissed; and
- mitigating the consequences of the dismissals with a view of reaching agreement with the Trade Union(s), (e.g. mitigating potential redundancies by such means as transferable skills and redeployment options and retraining).

#### **4. Consultation with Staff at Risk**

4.1 Employees who are at potential risk of redundancy, may at any formal stage of the procedure, be accompanied by a recognised Trade Union representative, or a workplace colleague who does not have a conflict of interest.

##### **4.1.1 Collective Meeting**

The Trust will commence any redundancy proposals with a collective meeting of all staff identified at risk of redundancy. A member of the HR team will be present at this meeting and the following information will be provided:

- a. Reason(s) for the proposal;
- b. Process to be followed;

- c. Timescale;
- d. Next step in the process;
- e. Nominated contact in the process for further queries or questions.

Where it is not possible to get all staff at the same time (e.g. absence due to sickness) then the Trust will write to staff that are not present at the collective meeting to provide them with the above information and an opportunity to meet a HR representative to discuss the matter.

If an employee is absent from work, they will still be given the opportunity to engage with the appropriate consultation processes. The Trust will consider alternatives to traditional methods of consultation, e.g. email, telephone or via written correspondence, where appropriate or requested by the individual however the consultation process will continue in accordance with the timescale detailed in Paragraph 3.5.

#### 4.1.2 **Individual Meeting**

Each individual identified at risk of redundancy will be invited to an individual meeting. The purpose of the meeting will be:

- a. to formally notify the individual that they are at risk of redundancy and to ascertain their views on the proposal;
- b. to identify individual circumstances;
- c. to discuss preferences and options for the future;
- d. to provide the individual with a list of any available vacancies within the Trust;
- e. to highlight key skills or expertise that could be re-deployed within the Trust;
- f. to seek the individual's suggestions on ways to mitigate the consequences of the proposed dismissals;
- g. to seek views on the pool of staff identified at risk of redundancy;
- h. to provide an estimate of redundancy and notice payment;
- i. to identify the individual's preferred method of communication for the duration of redundancy process/consultation (e.g. email, letter etc.). In the absence of any preference, the Trust's default method of communication will be First Class Post.

## **5. Avoidance of Compulsory Redundancy**

5.1 The Trust will seek to take reasonable and practical measures to avoid compulsory redundancies. To this end the Trust will give due consideration of each of the following measures in situation(s) where potential redundancy(ies) arise:

- reduction of staffing levels by natural wastage;

- reduction of the numbers of short term temporary/supply staff engagements (where possible);
- retrain or if possible redeploy to other parts of the Trust;
- reduction or elimination of over-time working;
- restricting or freezing external recruitment where appropriate;
- consideration of volunteers for part-time working or job sharing;
- seek volunteers for redundancy;
- seek volunteers for early retirement.

**a. Voluntary Redundancy**

Applications will be considered from relevant employees who are willing to volunteer to be made redundant. Such employees will normally come from those individuals identified at risk of redundancy. The exception to this rule will be where staff volunteer for redundancy from another area of the Trust and the resultant vacancy could be utilised to re-deploy one of the individuals at risk.

The Trust will not automatically accept such a request and reserves the right to decide who is entitled to receive voluntary redundancy bearing in mind:

- future service requirements of the Trust in terms of knowledge, experience and skills;
- cost to the Trust.

**b. Early Retirement**

Applications will be considered from relevant employees who are willing to volunteer for early retirement. Clearly if such retirements result in a cost to the organisation (for example: additional pension contributions), the Trust will not automatically accept such a request and reserves the right to decide whose application (if any) will be supported bearing in mind:

- future service requirements of the Trust in terms of knowledge and experience and skills;
- cost to the Trust.

Employees considered for early retirement will normally come from those individuals identified at risk of redundancy. The exception to this rule will be where staff volunteer for early retirement from another area of the Trust and the resultant vacancy could be utilised to redeploy one of the individuals at risk.

**c. Suitable Alternative Employment**

The Trust will seek suitable alternative employment for any staff identified as being at risk of redundancy. To assist in this process, the Trust will provide all staff at risk with details of any vacant posts in the Trust.

Whether the alternative job on offer is suitable depends on the terms of the job offered and the employee's skills and abilities. The employee to be considered for re-deployment will be required to satisfy the essential requirements of the person specification for the post that they are seeking consideration of. Where an individual does not meet all the essential requirements of the person specification for a vacant post and is unlikely to do within a reasonable duration or requires a considerable investment in resources or training, then the person will not be considered for the role.

A member of staff who meets the essential requirements of the person specification, but does not meet the desirable elements of the person specification may still be considered for this role.

Factors such as pay, status, hours and location are also relevant when deciding whether a job is classed as suitable alternative employment.

The Trust may not be able to offer a similar position or a position in the same workplace, thus the suitability of alternative employment will require consideration of:

- training, qualifications and skills of the employee;
- his/her current role and status of the role;
- effects on earnings;
- any practical problems involved for the employee if employment is at a different locality;
- any practical problems involved for the employee if employment requires an alternative work pattern.

Any re-deployment opportunity would not be regarded as 'suitable' alternative employment if it meant:

- a significant change to travel time as a result of changing work base;
- a significant drop in salary or contractual hours of work (i.e. reduction which equates to a loss of 10% or more in hours/salary);
- a significant change in pattern of working hours which did not fit with personal circumstances.

However, this determination would be made by the Trust in consultation with the member of staff, with specific attention being given to:

- pay;
- travelling time;
- skill requirement;
- impact on status.

There may be instances where a post does not represent suitable alternative employment in the opinion of the Trust, e.g. pay differential is too great; loss in status is not reasonable; travel time is considerable. In these instances, the individual will be informed of this determination and the reason(s) for it. The individual may wish to still pursue their interest in this post, but must do so in the knowledge that by accepting the post it automatically becomes suitable alternative employment and their redundancy situation is extinguished. In such circumstances, the employee would still be offered a four-week trial period before they are required to make a final decision whether or not to accept the post.

An employee who refuses a suitable alternative post will lose their entitlement to redundancy pay. However, the Trust will write to the individual detailing why they believe the post is suitable and clarifying the risk to any redundancy payment.

To identify alternative employment opportunities, the Trust will:

- Consider all vacancies for redeployment before they go to external advert. If a post is considered possibly suitable then it will be ring-fenced to at risk employees in the first instance.
- Take reasonable steps to ensure that any opportunities for alternative employment are brought to the employee's notice. The employee shall be notified of any available post(s) within the Trust, and where there are posts which are potentially suitable, further information such as job description(s) will be provided.

When offered an alternative post, the employee will be given a four-week trial period from the commencement of the new post. This could be extended by written mutual agreement to enable retraining where appropriate. (An employee may undertake consecutive trial periods if such vacancies are available within the Trust).

Employees who accept suitable alternative employment (after the trial period), forfeit any right to a redundancy payment, as do those who refuse a reasonable offer of suitable alternative employment. The Trust may temporarily re-deploy an individual to a post which is not substantive in nature. Under such circumstances, the individual would retain their substantive employment status. Efforts would then be made to re-deploy the individual to a substantive post. Should it not be possible to redeploy the individual to a substantive post then they will be entitled to receive a redundancy payment based on the salary for their original post or the temporary post, whichever is greater.

The situation may arise when a vacancy exists and an employee at risk meets all the essential criteria but the role would be a promotion on their substantive

position. In such circumstances the role will be advertised internally to allow other existing staff to apply for the promotion opportunity. Should an employee not at risk be appointed to such a role then their previous post will be considered for redeployment purposes.

Final acceptance of the new post will be made clear to both parties and a new contract issued.

#### **d. Retraining**

The Trust will make all reasonable efforts to assist staff by providing them with re-training where appropriate to take up the duties of the new post within the limits of the available resources. Additionally, staff are required to seek out opportunities for the utilisation of their skills and abilities and re-training opportunities and identify these to the HR Team. The Trust will consider meeting or contributing to any reasonable costs incurred as a result of such retraining.

### **6. Selection of Staff to be made Compulsory Redundant**

6.1 The selection procedure for redundancy would usually address the following key stages:

- a. Redundant posts will be clearly identified by management.
- b. An assessment will be made as to what vacancies are available within the organisation.
- c. An assessment will be made of how many employees in redundant posts can be transferred to alternative vacancies within the Trust subject to selection principles being maintained.
- d. Contracts of temporary/supply staff in the same discipline may be terminated and an effort made to absorb potentially redundant staff accordingly across disciplines as appropriate. The use of Supply staff will be restricted to cover arrangements for recruitment difficulties, sickness, holidays etc. that cannot be met by redeployment.

6.2 If, despite the Trust's efforts to avoid compulsory redundancies, a situation becomes necessary to effect compulsory redundancies, any criteria for selection will be discussed with the recognised Trade Union(s) as part of the consultation process and, using a Redundancy Matrix for scoring, will take account of:

- Knowledge and experience of those in the pool at risk, and what is required for the role;
- Requisite Skills;
- Sickness record over the preceding 24 months (excluding long term sickness or sickness that relates to an underlying disability that has previously been notified to the HR Team or Occupational Health function);
- Active Disciplinary or Capability records on file.

## Redundancy Matrices

- 6.3 The criteria for selection for redundancy will be fair and transparent and applied consistently. The specific criteria to be used in redundancy situations will be detailed in a Redundancy Matrix, which will be specific to individual redundancy situations and the Job Description / Person Specification of the remaining posts to be filled. The aim of the selection process is to ensure the Trust retains sufficiently skilled and knowledgeable staff to deliver the service requirements however the criteria will relate to the four areas mentioned above.
- 6.4 The Trust will not select staff for compulsory redundancy utilising criteria not detailed in 6.2 and the Redundancy Matrix or that have not been previously consulted upon with the relevant Trade Union representatives. The only exception to this will be when there are no remaining posts for at risk staff to be considered for in which case the whole pool may be selected without the use of selection criteria.
- 6.5 The Redundancy Matrix will enable the scoring panel to score the individuals within the pool at risk. Each individual will be given an assessment against each criteria which will normally be either Excellent, Good, Adequate or Poor, and the scores for those assessments are as follows:

Excellent	8 points
Good	5 points
Adequate	3 points
Poor	0 points

- 6.6 There may be more than one criteria in each area detailed in paragraph 6.2 above and the number of criteria will depend on the nature and complexity of the role.
- 6.7 All employees will be consulted about, and provided with, the Redundancy Matrix and the scoring system as part of the consultation. To aid in the scoring a selection interview will be arranged to take place between the individual and the scoring panel. The individual may be asked to score themselves against the Matrix prior to the interview and/or be asked a number of questions (that will have been previously supplied) which they will have the option of answering in person or in a written submission. The individual's responses to the Matrix and the pre-determined questions, if relevant, will be validated with the line manager and/or contents of the personnel file and will enable the scoring panel to accurately score each individual against each criteria.
- 6.8 At the end of the selection process, the total score for each employee will be calculated, and depending of the number of posts at risk of redundancy, those with the lowest scores will be selected for redundancy.
- 6.9 An individual who is selected for compulsory redundancy will be informed in writing as soon as practicable. An employee who perceives that they have been inappropriately selected for compulsory redundancy or feel the selection criteria has been incorrectly applied, can appeal against this decision (see Section 11).

## 7. Notice of Dismissal

- 7.1 The statutory or contractual period (whichever is the greater) of notice of dismissal on the grounds of redundancy will apply.

7.2 An employee may leave before the expiry of notice if:

- the parties agree in writing to vary or waive their rights to notice which will involve no loss of unfair dismissal or redundancy rights; or
- the employee gives written counter-notice (which may be less than the statutory or contractual period given by the employer) and the reduced period of notice may be undertaken by mutual consent.

7.3 An employee may request to be paid in lieu of notice (i.e. have all their notice paid in a single lump sum). This payment would be dependent on the Trust agreeing to the request. Any payment would be subject to normal statutory deductions (tax and NI). Any request for payment in lieu of notice (PILON) should be made in writing to the HR Team (see Paragraph 4.1.1.)

7.4 The Trust reserves the right to cease access to all Trust work systems on the employees last day of attendance at work. If an employee wishes to access personal data relating to them e.g. payslips, after such cessation they should write to the HR Team detailing the information they require.

## **8. Redundancy Pay**

8.1 Employees with more than 2 years' continuous service will receive a redundancy payment.

8.2 Such calculations are based on the employee's age, length of continuous employment\* and actual weekly wage as follows:

- half a week's pay for each full year worked under the age of 22
- one week's pay for each full year worked from the age of 22, but under 41
- one and a half week's pay for each full year worked aged 41 and over.

\*For the purposes of the above calculation, length of service is capped at 20 years.

8.3 For term-time only staff weekly pay is calculated on the basis of full-year working with the reduction in salary for working reduced weeks per year being discounted.

8.4 A multiplier of 1.73 will be applied to all redundancy payments calculated as above.

## **9. Staff Support and Counselling**

9.1 The Trust will make every effort to ensure that confidential counselling will be made available so that departing employees will also be offered appropriate emotional support.

9.2 Where possible support will be made available about further education, vocational training opportunities and job seeking skills.

## **10. Time off to seek employment or arrange training**

10.1 The Trust will allow reasonable time off with pay to employees with the required two years of service who are under formal notice of redundancy in order that they may seek employment or arrange training outside of the Trust.

10.2 Employees may be required to show evidence of appointments and/or interviews but where they are genuinely unable to do so, this will not normally prevent reasonable release.

10.3 Applications for time off should be made under the Leave of Absence Policy.

## **11. Appeals against Redundancy Dismissal**

11.1 There is no right to appeal against a dismissal made as a result of a voluntary redundancy application.

11.2 Where an employee wishes to appeal against their selection for compulsory redundancy they should write within 14 calendar days to the Chair of the Trust Business Committee. The Employee should state in their written communication: -

- The grounds for the appeal, (these grounds will normally be an error in procedure or error in fact or error in law.)
- Supply sufficient detail to sustain the grounds of appeal.
- The outcome that they are seeking from the Appeals process.
- How they would wish to have their appeal considered i.e. by correspondence or through attendance at an appeal hearing.

On the conclusion of the selected Appeal process, the employees' rights of appeal within the Trust are concluded.

## **12. Policy Review**

12.1 The effectiveness of this policy will be monitored annually and reviewed every three years in light of experience and best practice. This mechanism recognises that changes to employment legislation may prompt a review of the policy before the three years stipulated.

12.2 In considering the effectiveness of this policy, consultation will be undertaken with Trade Unions, staff and managers to assist in the review and monitoring of this policy.