

**Joint Agreement on Guidance for the
Avoidance and Handling of Redundancies
in Further Education Colleges**

Between

Association of Colleges (AoC)

And

Association for College Management (ACM)

Association of Teachers & Lecturers (ATL)

GMB

University and College Union (UCU)

UNISON

Unite - The Union

March 2010

1 Introduction

- 1.1 This is a joint agreement on guidance to provide a framework for further education (FE) Colleges to establish a locally agreed policy and procedure with recognised trade unions for avoiding and handling redundancies. This represents minimum standards which can be implemented and improved on locally.
- 1.2 The intention of an agreed policy and procedure is that job security will be maintained wherever practicable and every effort will be made to avoid compulsory redundancies. It is recognised however that circumstances may arise which result in Colleges seeking a reduction in staffing levels necessarily brought about by economic, technical or organisational constraints affecting operational needs or other organisational issues. This guidance therefore recognises the benefit of early consultation with recognised trade unions and the importance of planning resources to avoid or minimise the need for redundancies.
- 1.3 This joint guidance applies to all employees, including those on fixed-term contracts and part-time contracts. The framework and any local agreements made under it should give due regard to the ACAS guidance on Redundancy Handling.

2 Avoiding Redundancies

- 2.1 A Corporation has a responsibility to manage the College and the services it provides in the most effective and efficient way. While it is committed to the principle of maintaining job security, there may be circumstances affecting the institution, which could have implications for the workforce. Early consultation with recognised trade union representatives regarding such circumstances provides an opportunity to share the problem and explore the options with a view to avoiding the need to consider redundancies. This would normally be achieved through consultation with an existing Joint Consultative Committee (JCC).
- 2.2 The JCC should have timely access to all the necessary material and information to enable an informed dialogue regarding the College's financial position. This might include consideration of the College's performance, funding and future plans to identify any economic, technical or organisational issues affecting the need for changes in the size of the workforce.
- 2.3 Where any plans compel the Corporation to contemplate or plan for collective redundancies it recognises the benefit of early and meaningful consultation with recognised trade union representatives and employees and also recognises its statutory obligations in respect of consultation, as set out in section 3 below. Formal consultation will include consideration of the steps to avoid or minimise compulsory redundancies (see examples listed in 3.4 below) and will be with a view to reaching agreement.

3 Formal Consultation Procedures

- 3.1 Where the steps outlined in section 2 fail to remove the potential redundancy situation, and the College proposes to dismiss employees as redundant, for the purposes of collective consultation the College will provide recognised trade union representatives with the following information:

- the reasons for the proposals;
- the number and description of employees whom it is proposed to dismiss as redundant;
- the total number of employees of that description employed at the institution;
- the proposed method of selecting the employees who may be dismissed;
- the proposed method of carrying out the dismissals with due regard to any agreed procedure, including the period over which the dismissals are to take effect; and
- the proposed method of calculating the amount of any redundancy payments made to employees who may be dismissed.

3.2 The College will engage in consultation with recognised trade union representatives on the above; and the representatives will actively engage in the consultation process with the College, with a view to reaching agreement about ways of:

- avoiding the dismissals;
- reducing the number of employees to be dismissed; and
- mitigating the consequences of the dismissals.

3.3 This will include regular meetings and consideration of the steps outlined in paragraph 3.4 below.

3.4 In attempting to avoid compulsory redundancies, consideration will be given to the appropriateness of the following measures on each occasion that a redundancy situation arises:

- Trying to make financial savings in other areas
- Reduction of staff levels by natural wastage
- Redeployment to other parts of the organisation (this may include conducting skills audits and, where necessary, providing training)
- Reduction or elimination of overtime working
- Restricting or freezing of external recruitment
- Restricting or freezing the engagement of external contractors and agency staff
- Reducing working hours (by agreement with staff)
- Considering volunteers for part-time and flexible working
- Considering volunteers for job sharing
- Sabbaticals and unpaid leave, or secondments¹
- Seeking alternative funding, e.g. where funding for a particular project has expired
- Seeking applications for voluntary redundancy across the College

3.5 In line with the duty to consult collectively, Colleges should give trade union representatives reasonable time and opportunity to consider the information provided, to seek clarification, to discuss the proposals with management and to put forward their own views or proposals. The College will carefully consider the trade union representative's submissions and respond as appropriate. Regular meetings should be held between management and trade union representatives for this purpose. Trade union representatives will make every effort to attend consultation meetings. The College's responses should be confirmed in writing, explaining any changes to the original proposals, the reasons for rejecting any alternative proposals and confirming the final proposals.

¹ Note that an employee on sabbatical, unpaid leave or a secondment may continue to be an employee and accrue employment rights, depending on the terms of the agreement.

- 3.6 In addition to consulting with recognised trade union representatives, the College will inform and consult with the individual employees affected. This will include discussion about how the College can mitigate the potential redundancy by such means as transferable skills and redeployment options, including the potential for retraining. Employees will be offered the opportunity to be accompanied by a trade union representative or work colleague at all individual consultation meetings.
- 3.7 The minimum period for consultation is prescribed by S188 of the 'Trade Union and Labour Relations (Consolidation) Act 1992', which requires that consultation with recognised trade unions (or employee representatives) must begin in good time and no later than:
- 30 days before the first dismissal takes effect where 20-99 redundancies are proposed; and
 - 90 days before the first dismissal takes effect where 100 or more redundancies are proposed.

The College will engage with recognised trade unions at as early stage as possible to allow meaningful consultation on whether the proposed redundancies are necessary and how they could be avoided.

- 3.8 Once consultation is genuinely complete and if, following the consultation process, it is still necessary to make redundancies, then the employees affected will be notified, together with details of the criteria adopted to determine their selection for redundancy.

4 Equality and Diversity Considerations

- 4.1 In accordance with its statutory obligations under the equality duties, a College will assess the impact, or potential impact, of any business plan or proposal that may result in redundancies, on equality and diversity. This must include consideration of how the proposal will impact, or has the potential to impact, on employees on grounds of race, disability or gender. This assessment should be carried out in consultation with recognised trade union representatives as soon as the business plan (which may result in redundancies) is proposed.

5. Selection Criteria

- 5.1 If, having taken into account the measures to avoid or minimise redundancy, the number of employees still exceeds requirements, the proposed criteria for selecting employees for redundancy will be discussed with the recognised trade union representatives as part of the consultation process.
- 5.2 It is preferable to determine selection criteria appropriate to a particular situation rather than specify criteria to be applied in each and every situation. In this way, the College can identify an objective selection process that will help to ensure the retention of a balanced workforce appropriate to the needs of the College at the time in question and in future years. However, the College will ensure that, on each occasion, the selection procedure will be fair, objective, consistent and non-discriminatory.

6. Procedure for Selection

- 6.1 Where an employee is provisionally selected for redundancy, he/she will be invited to attend a meeting with [an appropriate manager]. At this meeting the employee will be offered the opportunity to be accompanied by a trade union representative or work colleague. The purpose of the meeting is to inform and consult with the employee about the redundancy situation, explain the basis for the employee's selection and enable the employee to respond. The employee may ask questions about the selection criteria and the manner in which they have been applied and make representations as to why he/she should not be selected for redundancy. The College will take into consideration any representations made by the employee before making a decision. The College will also consider, in consultation with the employee, any remaining options available which could avoid the redundancy (having due regard to the options set out in 3.5 above, where appropriate). This may require further consultation meetings, depending on the circumstances.
- 6.2 If, after individual consultation, the College still proposes to select the employee for redundancy, the employee will be invited to attend a meeting with [an appropriate senior manager²]. The employee has the right to be accompanied at this meeting by a trade union representative or work colleague. At this meeting the College will review the situation and make a final decision regarding whether or not the employee will be dismissed by reason of redundancy, taking into consideration the outcome of the consultation process and any further representations made by the employee at the meeting. The decision will be confirmed in writing as soon as possible after the meeting.
- 6.3 If notice of dismissal by reason of redundancy is given, the employee's contractual or statutory period of notice (whichever the greater) will apply. Minimum statutory periods of notice are:
- one week's notice if the employee's continuous service is less than 2 years;
 - one week's notice for each year of continuous employment where the employee has 2 or more years service, but less than 12 years; and
 - not less than 12 weeks notice if the employee has 12 or more years service.

7. Time off during notice period to assist with job seeking

- 7.1 It is recognised that certain employees under notice of dismissal for redundancy have a statutory right to reasonable time off with pay during working hours to look for work or make arrangements for training for new employment.
- 7.2 To qualify for the statutory right to time off in these circumstances, employees must have been continuously employed for at least two years.

8. Redundancy Pay

² In accordance with the Instruments and Articles of Government, only the Principal has the power to dismiss an employee. The Principal can delegate this authority to the holder of a Senior Post as designated by the Corporation.

- 8.1 In calculating redundancy pay due regard should be given to contractual terms and statutory provisions, as set out in S162 Employment Rights Act 1996.
- 8.2 Employees with at least two years continuous service will qualify for a statutory redundancy payment. Continuous service with an 'associated employer' under the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999 will be counted for redundancy pay purposes.

9. Appeal







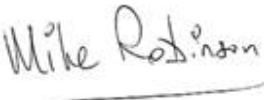
- 9.1 All employees will have the right to appeal against dismissal for redundancy. To exercise this right the employee must set out his/her grounds for appeal in writing and send it to [x] within [x] working days of receiving written confirmation of the decision.
- 9.2 The appeal will normally be heard by the Principal, unless the Principal has been involved in the decision-making process in relation to the redundancy, where the appeal will be heard by a Committee of the Corporation.
- 9.3 At the appeal meeting the employee will have the right to be accompanied by a trade union representative or work colleague.

10. General and definition of joint agreement

- 10.1 This joint agreement on guidance should not be read in isolation, but cross-referenced with all relevant employment guidance.
- 10.2 The agreement on this guidance is a recommendation to Colleges relating to avoiding redundancies and the procedure for handling redundancies when unavoidable.

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SIGNATURES OF THE PARTIES TO THIS AGREEMENT

AoC	
ACM	
ATL	
GMB	
UCU	
UNISON	
UNITE - THE UNION	

Date of Commencement of this Agreement:

March 2010