

# HIGHVIEW COLLEGE STAFF REDUNDANCY POLICY

Person Responsible – Principal

(Reviewed in even years)



Developed by	Lawyers, Clayton Utz	2013
Updated by	Principal, Melinda Scash	2016 / 2018
Review and Ratification by	The Highview College Board (Pending)	February 2019

## Statement of Context and Purpose

Highview College has legal obligations to adhere to when dealing with the termination of employment of an employee on the grounds of redundancy. This policy provides a best practice procedure to be followed when implementing redundancies. This will assist in ensuring that the termination process is conducted in an appropriate and objective manner.

Highview College supports a procedure whereby a termination based on redundancy is a 'genuine redundancy'. This procedure comprises:

- documenting the redundancy process;
- developing selection criteria and an implementation process which are fair and objective;
- assessing whether there is a reasonable alternative position available, and
- properly calculating redundancy pay

This policy and procedure is designed to ensure that redundancies are only implemented where the job performed by the employee is no longer required.

## Application

This policy applies to the Board, Principal and all the employees of Highview College.

## Definitions

**NES** means the National Employment Standards as set out in the *Fair Work Act 2009* (Cth).

**Legal instrument** means either legislation, an award, a collective enterprise agreement or contract of employment.

## Redundancy Explained

Redundancy arises where an employee's employment is terminated at the employer's initiative because the employer no longer requires the job performed by the employee to be performed by anyone. A redundancy situation may arise in a number of different contexts including:

- technological changes
- downturn in Highview College's productivity
- re-structures

In some cases, Highview College may:

- dismiss an employee and distribute their work to other employees, or
- create a new position that involves some, but not all, of the former duties

An employee should not be made redundant due to their unsatisfactory performance and/ or misconduct.

### **'Genuine Redundancy'**

A termination based on redundancy must be genuine. A redundancy will be genuine if:

- the employer no longer requires the employee's job to be performed by anyone
- the employer has complied with any obligations in an applicable award or agreement in relation to consultation, and
- it was not reasonable for the employee to be redeployed.

Unfair dismissal provisions do not apply in the case of a 'genuine redundancy'. Refer to the Termination Policy in relation to unfair dismissal.

### **Redundancy Procedure**

Highview College is responsible for ensuring that the following procedure is adhered to when a position is made redundant:

- Documentation Highview College will ensure that the redundancy process is clearly documented. The documentation will demonstrate clear reasoning and objective decision making in respect of all the stages of the redundancy process
- Consultation Highview College will comply with any consultation requirements outlined in any applicable legislative instrument
- Redeployment When a position is made redundant, Highview College will consider whether the employee can be redeployed within Highview College. If there is an alternative position that is 'reasonable', the employee will be offered that position for consideration. In determining whether an alternative position is "reasonable", Highview College will consider:
  - the nature of the position;
  - the qualification required to perform the job;
  - the employee's skill, qualification and experience; and
  - the remuneration which is being offered.

If there is not a reasonable alternative position available, the employee's employment will be terminated on the grounds of redundancy. If an employee refuses an offer of reasonable alternative employment with Highview College, the employee will not be entitled to redundancy pay in respect of their retrenchment.

### **Selection**

Highview College will adopt criteria that are fair and objective when selecting employees whose positions will be made redundant if there is a need to select amongst employees

holding the same position. Highview College will not base selection criteria on discriminatory grounds such as gender, age, disability or race.

### **Entitlements**

If an employee's employment is terminated on the grounds of redundancy, Highview College will properly calculate:

- the employee's redundancy pay
- notice of termination or payment in lieu of termination (see Termination Policy), and
- entitlements such as accrued untaken annual leave and long service leave (see Leave Policy)

Employees may be entitled to redundancy pay calculated in accordance with any legal instrument, or the redundancy pay scale set out in the NES (whichever is the more favourable). The redundancy pay scale under the NES is set out below:

Under the NES, an employee's redundancy pay is calculated at their base rate of pay for their ordinary hours worked and does not include bonuses, loadings and allowances.

An employee's entitlement to redundancy pay under the NES is dependent on whether the employee had an entitlement to redundancy pay prior to the introduction of the NES. If an employee did not have an entitlement to redundancy pay (for example, in a contract or award) prior to 1 January 2010, an employee's period of continuous service with Highview College will only accrue from 1 January 2010 for the purposes of calculating their redundancy pay.

Other benefits such as out-placement assistance may be provided at the sole discretion of Highview College.

### **Consequences of a Breach of this Policy**

This policy is a best practice procedure and does not create any binding obligations or rights.

### **Implications for Practice**

#### **At Board / Principal Level**

To properly implement this policy, Highview College, the Board and/or the Principal must ensure:

- that this policy is endorsed every second year
- that copies of this policy are made available to employees, for example on the Highview College website
- that this policy is incorporated into the Board's / Principal's record of current policies

- that this policy is incorporated into Highview College's induction program, to ensure that all employees are aware of the policy, have read and understood the policy, and acknowledge their commitment to comply with the policy
- that periodic training and refresher sessions are administered to all employees in relation to this policy
- that employees are directed towards the notice of termination requirements outlined in the Termination policy.

### **At Other Levels**

To properly implement this policy, all Highview College's employees, must ensure:

- that they will abide by this policy and assist Highview College in the implementation of this policy
- that they return any property in their possession or control that belongs to Highview College