

Redundancy and Restructuring procedure

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This document is based on a model policy/procedure which reflects legislation, any relevant statutory and non-statutory guidance and best practice. The responsibility for setting policy and procedure resides with the Trust Board and as such the relevant body must be satisfied that the content of the policy/procedure suits their requirements.

This policy will be reviewed in line with Essex HR Guidance



CONTENTS

	Page No:
1. Introduction	3
1.1 Policy Statement	3
1.2 Definitions	3
2. Scope of the Procedure	4
3. Roles and responsibilities	4
4. Record Keeping	6
4. The Procedure	5
4.1 Declaration of a redundancy	5
4.2 Timescales	5
4.3 Consultation	5
4.4 Redundancy Avoidance	6
4.5 Salary Protection	6
4.6 Trial Periods	7
4.7 Selection Procedures	7
4.8 Redundancy Payments	8
4.9 Support for employees	8
5. Data Protection	9
Appendix A – Redundancy / Restructuring Procedure at a glance	10
Appendix B – Redundancy Selection Criteria	11
Appendix C –Ready Reckoner for Statutory Redundancy Payments	12

1. Introduction

This procedure sets out the process that will be followed where:

- there is a need to amend the staffing structure
- there is a need to reduce staffing
- there is a closure
- a redundancy situation arises

within one or more academies within the Trust or within the Trust itself.

1.1 Policy Statement

The Trust will:

- keep its staffing structures (as contained in the Trust's Pay Policy) under regular review and plan effectively for future needs;
- implement measures aimed at avoiding redundancy wherever possible;
- ensure that effective communication and consultation takes place with employees and professional associations/trade unions where reorganisation/redundancy situations do arise;
- ensure that 'at risk' staff have priority for any appropriate vacancies within the Trust;
- support staff in their attempts at obtaining suitable alternative employment beyond the Trust.

1.2 Definitions

1.2.1 Redundancy

Redundancy is one of the potentially fair reasons by which employees may be dismissed.

Redundancy is defined by statute as a situation where:-

- (a) the employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him/her; or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed;

OR

- (b) the requirements of that business for employees to carry out work of a particular kind, or to carry out work of a particular kind in the place where he/she was so employed, have ceased or diminished or are expected to cease or diminish.

Redundancy situations may arise for a number of reasons including:

- Academy closure or reorganisation/re-structuring;
- fall in pupil numbers or changes to curriculum requirements resulting in reduced staffing requirements;
- withdrawal/reduction of SEND or other special provision/funding;
- other circumstances where the need for employees to carry out work of a particular kind ceases or diminishes, including the cessation of fixed term contracts.

1.2.2 Re-structuring

A re-structuring can be defined as any change to the staffing structure as set out in the Trust's Pay Policy.

2. Scope of the Procedure

The procedure is applicable to all categories of staff where a reorganisation, closure or redundancy situation occurs. A modified version of this procedure may be followed in respect of fixed term temporary posts and those staff with less than two years' service.

3. Roles & Responsibilities

3.1 The Trust Board will ensure that procedures are in place to:

- consult employees regarding these procedures prior to adoption;
- communicate procedures to staff;
- monitor and review procedures to ensure that they are implemented in a timely, fair and consistent manner.

3.2 Specific roles and responsibilities

Employees in “at risk” group / roles being restructured	Formal declaration of potential Redundancy Situation	Manage process and make initial dismissal decision ¹	Hear appeal ¹
Employees in a single Academy	LGB Trust Panel** Trust Board	Senior Manager Headteacher	Headteacher LGB Panel** Trust Panel**
Trust Employee (Central Services) Groups of employees across all academies	CEO Trust Panel** Trust Board	Senior Manager CEO	CEO Trust Panel**
Headteacher role	CEO Trust Panel** Trust Board	CEO	Trust Panel**
CEO role	Trust Panel** Trust Board	Deputed Trustees	Trust Panel**

¹Different individuals/groups will deal with the two stages to ensure appropriate separation of function.

Note 1: The term “Headteacher” is used to identify the person with responsibilities of headship within each Academy, who may be referred to locally as Headteacher, Principal, Executive Headteacher, or Executive Principal

Note 2: Where not involved directly in the relevant stage of the procedure (or subject to it in the case of the CEO), the CEO and Chair of the Trust Board will be notified prior to any decision to dismiss a member of staff.

3.3 It is the responsibility of the Chief Executive Officer/Academy Headteacher to:

- advise the Trust Board/local governing body on staffing structures which seek to avoid redundancy situations;
- implement re-structuring/redundancy procedures fairly;
- make fair initial dismissal decisions.

3.4 It is the responsibility of all staff to:

- co-operate with procedures and redundancy avoidance strategies;

- implement strategies to mitigate individual loss e.g. actively seek alternative employment.

4. The Procedure

The Procedures are summarised at Appendix B.

4.1 Declaration of a redundancy

Where initial strategies to avoid a redundancy situation have been unsuccessful, the Trust Board/Local Governing Body will meet to formally declare a potential redundancy situation.

Where a reorganisation is proposed, the Trust Board/Local Governing Body may declare a redundancy situation at an early stage as a precautionary measure, even though the exact potential for redundancy may not yet be fully known.

4.2 Timescales

In order to allow for meaningful consultation and notice periods, and where possible, the procedures will often commence many months before the date that any redundancy or new structure are to take effect.

4.3 Consultation

The purpose of consultation is to inform and to seek views about how redundancies may be avoided and the potential impact of any new staffing structure.

4.3.1 With staff

Any potential redundancy situations will be discussed with relevant staff at the earliest opportunity, and where appropriate, before formal declaration of a redundancy.

In the case of reorganisation, the scope and period of consultation will depend on the extent of the proposed changes. Where a significant change is proposed, an implementation plan will normally be produced as part of the consultation process, to explain exactly how the process will be managed and its effect on staff.

Staff are encouraged to engage in meaningful discussion and to make suggestions on any new structure and how it might be implemented and measures which might be taken to avoid any redundancies. Details of discussions will be recorded.

Staff should of course seek advice from their professional associations/trade union as and when they consider it appropriate.

4.3.2 With the Trade Unions/Professional Associations

When a reorganisation and/or formal redundancy situation has been declared, appropriate consultation will be undertaken with the local professional associations/trade union representatives with a view to reaching agreement.

Where an Academy Trust proposes to make 20 or more employees redundant within a 90 day period, in accordance with statute, the Trust will issue a Section 188 notice and an HR1 notification to the Department for Trade and Industry, disclosing in writing information relevant to the potential redundancy. Formal responses should be received within 2 working weeks. In the case of a reorganisation, this will include formal

consultation on changes to the staffing structure and on the implementation plan where applicable.

- 4.3.3 Meaningful consultation will continue throughout the formal procedure. The Trust Board/Local Governing Body and Academy Headteacher will consider any representations made by staff and/or the professional associations/trade unions. Replies will be made to formal representations in writing and, if any are rejected, the reasons will be stated.

4.4 Redundancy Avoidance

- 4.4.1 Compulsory redundancy avoidance measure will be instigated including:
- (a) not filling vacant posts externally (where appropriate);
 - (b) slotting into appropriate posts within the Trust;*
 - (c) ring fenced selection for posts within the Trust;*
 - (d) priority interviews within the Trust
 - (e) searching for suitable alternative posts;*/**
 - (f) exploring other options with employees and their representatives e.g. changes to hours, change to part-time work;
 - (g) seeking volunteers for redundancy;***
 - (h) seeking volunteers for flexible retirement;****

In the case of re-structuring/reorganisation where there is a risk of redundancy, these measures will form part of the overall consultation document where appropriate. These measures will continue throughout the entire procedure.

*With salary protection where applicable and in accordance with the Trust's Pay Policy and the Teachers' Pay & Conditions Document;

**The Trust will make every effort to identify suitable alternative employment for at risk staff, including at other Academies within the Trust where appropriate. An employee who unreasonably refuses an offer of suitable alternative employment will not be entitled to a redundancy payment.

*** Voluntary redundancy will not be considered until or unless all other means of avoidance have proved unsuccessful. Applications for voluntary redundancy will only be accepted in accordance with the current Trust Board policy and where this would not be detrimental to the needs of the academy. Where there are more volunteers than needed, the selection criteria will be applied (see 4.5 of this Procedure and Appendix B).

****Employees are free to pursue flexible retirement options. Some options require the employers' approval. Approval will not normally be withheld where there is no cost to the employer.

4.4.2 Trial periods

Staff who are successfully redeployed after having been given notice of dismissal, will be entitled to a four-week trial period, where the terms and conditions of the new post are significantly different from those of their existing post.

4.5 Salary protection

Where an employee who is at risk of redundancy is appointed to a post at a lower salary, or is appointed to a post at a lower salary as a result of a re-structuring, his/her salary will be protected:

either:

- in accordance with the terms of the Teachers' Pay & Conditions Document where these terms apply to their contract;

or

- in accordance with this procedure, at their former salary for a maximum of 18 months, after which time the employee will revert to the substantive grade for the post.

4.5 Trial Periods

Staff who are successfully redeployed after having been given notice of dismissal, will be entitled to a four-week trial period, where the terms and conditions of the new post are significantly different from those of the existing post

4.7 Selection Procedures

4.6.1 Selection for redundancy

In other redundancy situations, if the strategies adopted in 4.4 above (or any other strategies that may have arisen as a result of consultation) do not resolve the situation, the Headteacher will determine and apply the selection criteria as set out in Appendix B.

Staff and unions will be consulted on the selection criteria and the method by which they will be applied.

4.6.2 Selection in a reorganisation

In the case of a reorganisation, staff will normally be slotted and/or interviewed for available posts. The method of appointment to available posts will be outlined in the consultation document where appropriate.

In these cases, any redundancies will usually be identified through non-appointment to available posts.

4.6.3 Notification

Once an individual has been identified as redundant, s/he will be notified verbally by the Headteacher and then in writing, setting out the details of how the decision was reached and inviting the employee to a meeting to discuss this.

4.6.4 The Meeting

- The employee will be given at least 7 clear working days notice of this meeting and provided with papers relevant to the case at least 5 working days before.
- The employee must make every effort to attend this meeting.
- The employee has the right to be accompanied by a trade union representative, an official employed by a trade union, friend, work colleague or other appropriate person. Trade union representatives who are not employed officials must have been certified by their union as being competent to accompany an employee. The manager may be advised by an HR advisor.
- One postponement may be allowed where the employee's chosen representative is unavailable on the proposed date. In this case an alternative date, within 5 working days of the original date, should be proposed by the employee and/or their representative.
- The employee must submit any papers they wish to be considered and the name of their representative to the Headteacher at least 3 clear working days before the meeting.
- At the meeting, the manager, who may be accompanied by an HR adviser, will set out the reasons for selecting the employee and listen to their representations.
- After the meeting the outcome will be confirmed in writing. This letter will also set out the right of appeal.
- Following this meeting, where the decision is to dismiss on the grounds of redundancy, the Trust will issue notice, to the individual, in accordance with the appropriate conditions of service and statutory requirements.

4.6.5 The Appeal

- If the employee wishes to appeal, they must submit this in writing, including the grounds of the appeal, within 5 working days of receipt of the written outcome of the meeting.
- If the employee does so, the employee will be invited to an appeal hearing. The employee will be given at least 5 clear working days' notice of this meeting.
- The employee will be supplied with papers relevant to the appeal at least 5 clear working days before the appeal meeting.
- The employee must take all reasonable steps to attend this appeal meeting and has the right to be accompanied as above.
- The employee must supply copies of any papers they wish to be considered, and the name and status of their representative, at least 3 working days before the meeting.
- The Dismissal Appeals Committee will hear evidence from the Headteacher and the employee (and their representative).
- The Dismissal Appeal Committee may be advised by an HR adviser.
- The Dismissal Appeal Committee will inform the employee in writing of the final decision within 3 working days of the appeal meeting.

4.6.6 Redundancy avoidance options will continue to be explored throughout the period of notice.

4.8 **Redundancy Payments**

Employees with more than 2 years continuous service may be eligible for a redundancy payment. A ready reckoner for calculating statutory payments is at Appendix C.

For each complete year of service up to a maximum of 20, eligible employees are entitled to:

- for each complete year of service under age 22 – half a week's pay
- for each complete year of service age 22-40 – one week's pay
- for each complete year of service age 41 and over – one and a half weeks' pay

Redundancy payments are calculated using actual weekly pay rather than the statutory minimum

Where employees with more than one contract are made redundant from only one post, service for redundancy purposes will relate to the redundant post only.

Employees will not be entitled to a redundancy payment if they secure suitable alternative employment, with an employer covered by the Local Government Modifications Order, to commence within 4 weeks of the date of redundancy. Where an offer of alternative employment is made, the start date of this employment should not be artificially delayed to facilitate the 4 week break. Where this does occur, employees will not be entitled to a redundancy payment.

Employees who are redundant may also be entitled to release of their pension in accordance with pension scheme rules/local policies.

4.9 **Support for Employees**

The Trust will provide reasonable support for employees at risk of redundancy, e.g.:

- time off to attend interviews and training and development;
- support with writing job applications;
- exploration of work-related re-training opportunities;

- notification of internal vacancies and specific provision of information about other vacancies within the LA where possible

5. Data Protection

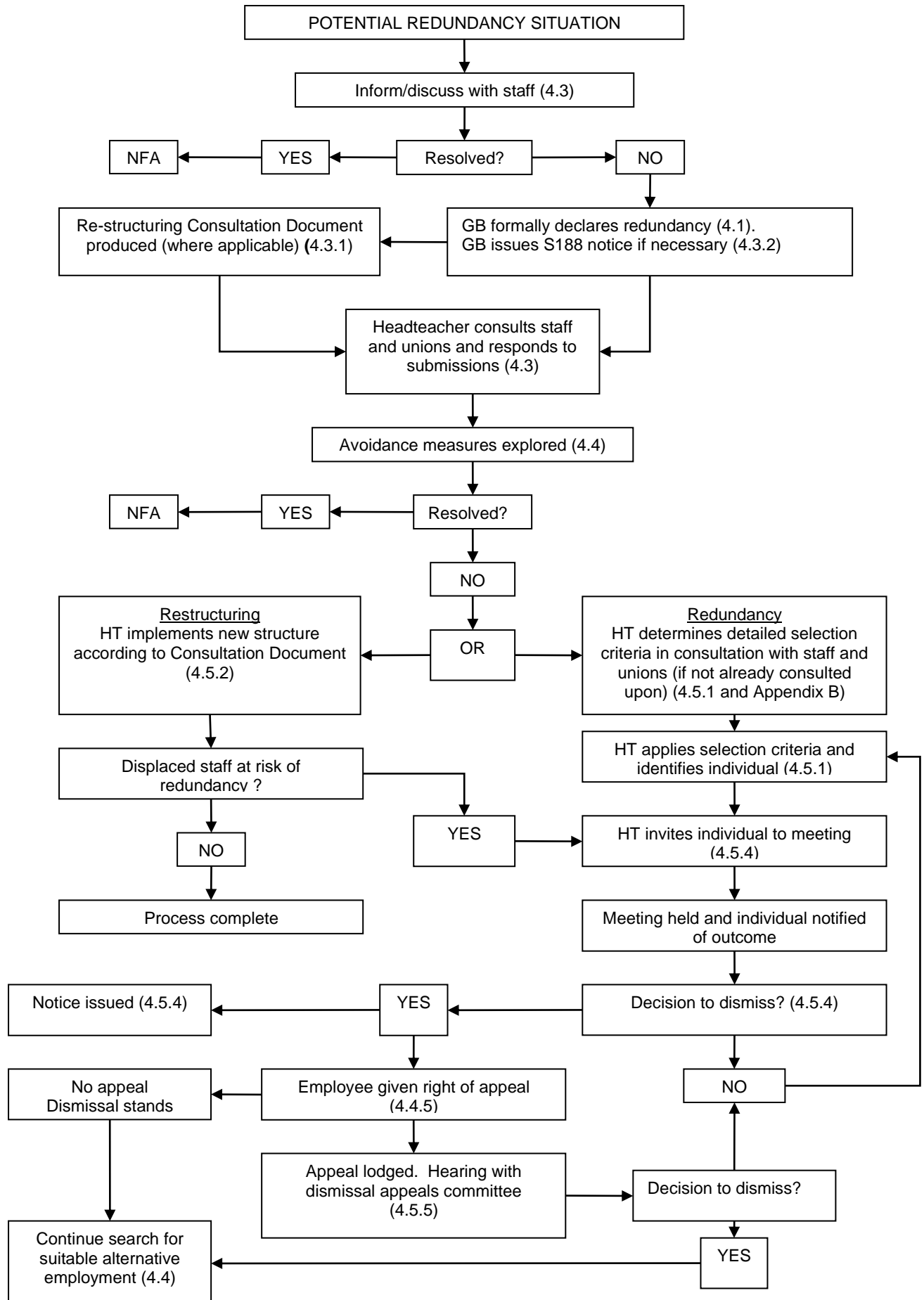
A written record of all meetings conducted under this procedure will be made, either by the person holding the meeting or by an alternative person arranged by the Trust to take notes.

The Trust processes any personal data collected during the redundancy / restructuring procedure in accordance with its data protection policy. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the redundancy/restructuring procedure.

On the conclusion of the procedure, data collected will be held in accordance with the Trust's retention schedule. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Trust's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Trust's disciplinary procedure.

Appendix A – Redundancy / Restructuring Procedure at a glance

(brackets refer to relevant paragraph of the Procedure)



Appendix B – Redundancy Selection Criteria

In order to fairly select an individual employee for redundancy, the Headteacher must apply objective selection criteria. As each redundancy situation will be different, the detail of the selection criteria will need to be determined on a case-by-case basis. In all cases, staff and Trade Unions/Professional Associations will be consulted on this process. However, all selection decisions will follow the stages set out below.

- a) Determine the 'at risk' group i.e. whole academy, department, section, or group within the establishment which has surplus staff. Where there is only one employee in this group s/he will be selected for redundancy without the need to apply the remaining selection criteria.
- (b) Determine the requirements of the academy, department or section.
- (c) Determine the suitability (with reference for example to skills and qualifications where relevant) of those in the 'at risk' group in relation to the requirements of the academy, department or section.
- (d) Suitability will be assessed objectively. Employees will contribute to this usually by completion of a skills audit linked to the requirements determined in (b) above. Employees' managers, in addition to the Headteacher, may also be required to contribute to this process.
- (e) A judgement will be made as to which staff best meet the requirements of the academy, department or section and thereby which employee(s) may be selected for redundancy.

Appendix C – Ready Reckoner for Statutory Redundancy Payments

Age	Completed Years of Service																			
16																				
17	½																			
18	1	1½																		
19	1	1½	2																	
20	1	1½	2	2½																
21	1	1½	2	2½	3															
22	1	1½	2	2½	3	3½														
23	1½	2	2½	3	3½	4	4½													
24	2	2½	3	3½	4	4½	5	5½												
25	2	3	3½	4	4½	5	5½	6	6½											
26	2	3	4	4½	5	5½	6	6½	7	7½										
27	2	3	4	5	5½	6	6½	7	7½	8	8½									
28	2	3	4	5	6	6½	7	7½	8	8½	9	9½								
29	2	3	4	5	6	7	7½	8	8½	9	9½	10	10½							
30	2	3	4	5	6	7	8	8½	9	9½	10	10½	11	11½						
31	2	3	4	5	6	7	8	9	9½	10	10½	11	11½	12	12½					
32	2	3	4	5	6	7	8	9	10	10½	11	11½	12	12½	13	13½				
33	2	3	4	5	6	7	8	9	10	11	11½	12	12½	13	13½	14	14½			
34	2	3	4	5	6	7	8	9	10	11	12	12½	13	13½	14	14½	15	15½		
35	2	3	4	5	6	7	8	9	10	11	12	13	13½	14	14½	15	15½	16	16½	
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14½	15	15½	16	16½	17	
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15½	16	16½	17	17½	
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16½	17	17½	18	
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17½	18	18½	
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18½	19	
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19½	
42	2½	3½	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
44	3	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	
45	3	4½	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
46	3	4½	6	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	
47	3	4½	6	7½	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
48	3	4½	6	7½	9	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	
49	3	4½	6	7½	9	10½	12	13	14	15	16	17	18	19	20	21	22	23	24	
50	3	4½	6	7½	9	10½	12	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½	
51	3	4½	6	7½	9	10½	12	13½	15	16	17	18	19	20	21	22	23	24	25	
52	3	4½	6	7½	9	10½	12	13½	15	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½	
53	3	4½	6	7½	9	10½	12	13½	15	16½	18	19	20	21	22	23	24	25	26	
54	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	20½	21½	22½	23½	24½	25½	26½	
55	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22	23	24	25	26	27	
56	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	23½	24½	25½	26½	27½	
57	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25	26	27	28	
58	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	26½	27½	28½	
59	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28	29	
60	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	29½	
61+	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	30	