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Date January 2017

Dear Colleagues

### **Redundancy and Restructure Policy and Procedure – January 2017**

Please find attached a revised Policy and Procedure which merges the existing separate Redundancy and Restructure Policy and Procedures into one document.

The model policy and procedure is recommended to the Governing Boards of all Maintained Schools where the Local Authority is the employer and to the Governing Boards of those Academies, Aided and Foundation schools which purchase the Children's Services Advisory HR Services for Schools. The basis of the recommendation is that the model Redundancy and Restructure Policy and Procedure provides a sound and fair framework for managing a reduction in the numbers of staff required or where there is a restructure in school whether or not there is also a reduction in the numbers of staff required.

The Local Authority has reached a collective agreement on the policy but we were not able to reach agreement with the recognised trade unions and professional associations on the advice and guidance, principally the selection criteria. The NASUWT in particular raised strong objections to the use of temporary variations to contract as a means to mitigate against compulsory redundancy.

Governing Boards are therefore strongly advised to adopt the LA's procedure, but should be aware that the trade unions and staff associations reserve the right to challenge aspects such as consultation arrangements, identification of "at risk" pools and selection criteria as part of the consultation process. When Governing Boards agree and apply their selection criteria they must be mindful of the potential for, and seek to avoid direct or indirect discrimination.

The Advice and Guidance is now provided in a separate document for ease of use. The Governing Board of **any** school wishing or intending to adopt an alternative Redundancy and / or Restructure Policy and Procedure must conduct its own formal consultations. It is also important to share the policy with staff and report any feedback received to the Governing Body.

Once the Governing Board adopts the revised policy and procedure, any remaining copies of the former redundancy procedure, restructuring procedure and any advice and guidance should be destroyed/deleted to avoid confusion.

The policy and procedure is in three parts with guidance and a flowchart to guide Governing Boards and Headteachers on which part of the procedure to be followed depending on the circumstances in the school. The revised document provides greater detail for any school needing to undertake a restructure which is combined with the need for staffing reductions. There are small amendments throughout, but the key changes are as follows:

- There is increased emphasis on identifying ways to mitigate the need for redundancies through proactive workforce planning, cessation of fixed term contracts or buy out of hours. Voluntary options for staff are also highlighted.
- The document incorporates previous separate advice on the temporary variation of contract to mitigate redundancy, the procedures for ending fixed term contracts and for guidance on offering buy-out of hours to support staff.
- Inclusion of the relevant legislation including part-time workers, fixed term contracts and maternity protection.
- Clarification is given in part B of the procedure, of the steps that need to be followed to ensure that staff are engaged fully in both the restructure and redundancy elements of a combined procedure.
- Clarification is provided regarding the documentation that needs to be provided during the formal consultation period.
- Further guidance is provided on the need to ensure that support staff posts within any revised structure are appropriately graded within the Local Authority negotiated pay structure.
- Flow charts have been provided for each part of the procedure to help Governors and Headteachers who prefer to see the steps of the process in a visual form.
- The underlying principles and definitions used within the restructuring procedure have been provided to create a shared understanding of the terminology used within the restructuring procedure and aid understanding of all parties.
- Greater clarity is provided on what will happen at the conclusion of the process where selection for redundancy takes place. This will be of particular assistance to any staff that have been provisionally selected for redundancy.

The final document is the product of significant joint working through SJCC with the shared focus of improving clarity, addressing any issues that have been identified in implementing the previous procedures, as well as taking account of ACAS advice and case law.

For any queries about the policy and procedure, please contact the Children's Services HR Advice and Guidance team on 01629 53734. All consultants and senior consultants in the schools' team can be contacted for support in the application of the procedure.

Yours faithfully



Emma Crapper  
HR Service Partner (Children's Services)

# **DERBYSHIRE LA**

## **REDUNDANCY AND RESTRUCTURE POLICY AND PROCEDURE**

Passed at governors 31.3.2020 – R143 – 19/20

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**ESSENTIAL  
PRINCIPLES OF THE  
REQUIREMENTS  
UNDERPINNING THE  
REDUNDANCY AND  
RESTRUCTURING  
PROCEDURE**

## 1. **SCOPE**

This procedure has been adopted by the Governing Board of **Bramley Vale Primary** School in accordance with the advice of Derbyshire County Council consistent with the requirements of National and Local Conditions of Service and the Articles and Instruments of Government and the Advisory, Conciliation and Arbitration Service (ACAS). This policy applies to all employees of the School. It does not apply to other staff working at the school who are employed directly by Derbyshire County Council or other partner organisations.

The policy is laid out in 3 separate parts and the school will use the part of the policy applicable to the circumstances by referring to the flowchart on page 12.

## 2. **BACKGROUND**

The factors driving a review of staffing are likely to include one or more of the following:

- the School Improvement Plan has identified that a change in the structure may be of benefit to the school and all other avenues have been explored
- significant change to the size of the school
- the introduction or reduction in the requirement for certain staff roles
- changes in the way some school functions are to be delivered- may be driven by technological developments
- the budget and resources available to the school

The staffing structure review may be focused on teaching staff, support staff or encompass the whole structure.

Where very small adjustments to the Staffing Structure are being considered and/or the school is small and the issues are already familiar to the staff, it may be appropriate to abbreviate some of the steps. The Headteacher will consult Trade Union/Professional Association Representatives to agree the appropriate process, even where the change is considered to be minor.

For the purpose of this procedure “working days” will mean Monday to Friday excluding bank holidays, “working days” will be in term-time.

## 3. **STATEMENT OF INTENT**

It is the policy of this School through careful planning to ensure as far as possible security of employment for its employees. There may, however, be changes in local circumstances, organisational requirements and technological developments which may affect staffing needs. Governors will examine all budget headings and identify a clear rationale for deciding on specific categories of employees. It is the aim of the school in consultation with Trade Unions and Professional Associations to maintain and enhance the efficiency of the School

in order to safeguard the current and future employment of the School's employees.

The School in consultation with the Trade Unions and Professional Associations will seek to find ways to avoid redundancies wherever possible. When this is unavoidable the School will seek ways to reduce the numbers and mitigate the consequences of redundancies. This will include the provision of sufficient time and effort in finding alternative employment for any employees and through co-operation with the Local Authority in its attempts to redeploy staff through the assignment of a redeployment officer and working with local schools and clusters. Where compulsory redundancy is inevitable the School will handle the redundancy in the most fair, reasonable, consistent and sympathetic manner possible.

The Governing Board will direct the Headteacher to inform all employees about potential redundancies at the earliest opportunity prior to any formal process and also to explain strategies available to effect any staffing reductions. The Headteacher will also keep staff informed as circumstances change and develop.

If a school does not consult with or act in accordance with guidance from either HR and/or School Support Finance the Local Authority would have to consider whether to pass on to the school budget the full costs of such a decision.

#### **4. MEASURES TO AVOID OR TO MINIMISE REDUNDANCY**

Where redundancies are contemplated; the Governing Board will consider ways in which it is able to avoid, or reduce the number of redundancies within the constraints of its budget and within the requirements of the curriculum and its obligations to pupils.

Such approaches would include:

- workforce planning
- natural wastage/planning
- balancing the budget over more than one year
- restricting the recruitment of permanent employees
- reducing the use of temporary contracts
- reduction of overtime
- normally filling vacancies from among existing employees

##### **a. Measures to mitigate against compulsory redundancy**

Where it is established that there is a need to make redundancies, the Governing Board will consider ways to mitigate against compulsory redundancies.

Approaches that will be considered may include:

- co-operating as far as practicable in the training, retraining or redeployment of employees for different work
- reducing hours where contracts allow and following appropriate consultation
- consideration of early retirements with actuarially reduced benefits or an efficiency exercise
- seeking volunteers for voluntary redundancy

#### **b. Redeployment**

The Governing Board will seek to work with the Local Authority and other local schools to assist in redeploying employees identified as surplus for whatever reason and will reciprocate by giving fair consideration to employees offered or nominated to them for redeployment by the Local Authority.

Where the Local Authority is the employer of staff, the Governing Board will, as required by law, notify the Strategic Director, Children's Services of any teaching vacancy and the associated job specification. The Strategic Director, Children Services or representative will have access to such information in identifying any potentially suitable appointments against which to nominate employees for consideration by other Governing Boards.

### **5. DISMISSAL**

The timing of the steps in any procedure which leads to a potential redundancy is crucial. Where the Local Authority is the employer, if a Governing Board notified the Local Authority of a decision that an individual should be removed from the School the Local Authority would have to dismiss the employee. For any redundancy dismissals in relation to a maintained school, the Local Authority would have to consider whether to pass on to the school budget the full costs of such a decision if any of the following are not met:

- sufficient time for full and meaningful consultation
- a proper procedure has been followed
- attempts have been made to reallocate the specific employee
- all alternatives to compulsory redundancy have been fully explored

In any of these circumstances the dismissal might be deemed unfair by an Employment Tribunal and would be deemed by the Local Authority as, good reason for deducting the costs, or part of the costs, from the schools budget share.

### **6. CONSULTATION**

The Governing Board is committed to consulting with relevant Trade Unions and Professional Associations as soon as practicable and keeping representatives fully informed about staffing requirements and any possible need for redundancies. The aim is to safeguard the interest of employees while meeting

the prime objective of maintaining effective delivery of education to pupils. There is a requirement to consult with Trade Unions and Professional Associations whenever there is a potential dismissal situations i.e. in addition to the statutory requirement to consult in a redundancy situation there is a requirement to consult when varying terms of employment or termination of a temporary contract.

Consultation will include consideration of ways of avoiding redundancies reducing them to a minimum and/or mitigating the consequences of dismissals.

Where the Local Authority is the employer, the Governing Board will, at the outset, advise the Local Authority of the staffing requirements of the school and will continue to inform and consult the Local Authority throughout the procedure.

The consultation with relevant Trade Unions and Professional Associations will begin as soon as possible and in any case will not be less than the period required by legislation, that is at least 30 days where 20 or more redundancies are being considered. Where less than 20 or more redundancies are being considered it will be expected that the Governing Board will adopt this timescale as best practice, or as a minimum at least 20 working days.

#### **a. Notice to Trade Unions and Professional Associations Consultation (Section 188) Notice**

It is the duty of a Governing Board which is contemplating redundancy of one or more employees of any description in respect of whom an independent Trade Union or Professional Association is recognised by the employer to consult at the earliest opportunity with Trade Union and Professional Association representatives (County Secretaries and organisers authorised to carry out collective bargaining on their behalf).

In order to comply with the duty the Governing Board will provide in writing to the County Secretaries of the relevant Trade Unions and Professional Associations the information outlined in the guidance attached to each section of the policy.

This information will be sent electronically by e-mail with a copy sent by post. A copy of this consultation (Section 188) notice must be sent to the Director of Children's Services for schools where the LA is the employer.

#### **b. Individual Consultation**

Any employee or groups of staff where the area of work they undertake is identified as being at risk of any reductions will be advised **before** any collective meeting emphasising that this is the start of the consultation process.

#### **c. Form HR1**

Proposed redundancies of 20 or more employees at one establishment in a 90 calendar day period must be notified to the Department of Trade and Industry on Form HR1. Where this is the case a copy of the HR1 will also be given to Regional Trade Union officials or other employee representatives who were consulted, and also be copied to the Local Trade Union branch as good practice.

#### **d. Withdrawal of Redundancy notice**

Circumstances may change during the consultation period when ways of mitigating redundancies can be identified e.g. A resignation occurs or a group of staff agree to vary (reduce) their contractual hours. Where there is no longer a requirement to make redundancies the school will write to all parties and notify them.

### **7. PRINCIPLES AND DEFINITIONS USED WITHIN THE RESTRUCTURING PROCESS IN THIS POLICY**

#### **a. Objective**

To achieve the best possible “fit” of staff at the school.

#### **b. Scope**

- The restructure exercise will be restricted to current staff at the school.
- Staff that are undertaking duties at a higher level at the school temporarily will be matched or ring-fenced under this process based on their substantive post in the first instance.
- Current Job descriptions and Person Specifications will be used in conjunction with any new ones to inform selection processes.
- The restructuring process will not be deemed a promotion exercise, although it is acknowledged on occasions it might result in a promotion opportunity.
- Any staff that are not assigned to a post immediately following the restructure processes, will have the opportunity to discuss options that might exist for consideration for any vacant posts, with reasonable training.

#### **c. Slotting exercise**

A ‘Slotting’ exercise compares jobs in the current school staffing structure with those in the new school staffing structure. An individual will be ‘slotted’ to a post where their current post is “substantially the same or similar” to a post in the new staffing structure. For this exercise, “substantially the same or similar” will be determined taking into account the match between the essential requirements of the new and old job, plus evidence of meeting qualification requirements.

#### **d. Redundancy selection within restructuring process**

Where the restructuring process 'slots' individuals to a particular post, but there are more post-holders than new posts, it will be necessary to undertake a redundancy selection procedure in relation to that group of staff. This will normally be undertaken by asking individuals to complete a redundancy selection assessment form which will be used to score them against agreed redundancy criteria.

#### **e. Ring-Fencing exercise**

- The 'Ring-Fencing' exercise applies where a new job description contains substantial elements of 2 or more existing job descriptions.
- Where individuals' posts are identified for 'Ring-Fencing' to new posts at the school, 'Ring-Fence' selection interviews will be undertaken to determine which staff should be appointed to the new posts.
- Ring-fencing interview arrangements will be arranged starting with higher-level posts, and working sequentially down the staffing structure.
- Where there are a number of posts available to the ring-fenced pool, staff will be issued with a preference form to complete prior to interviews.
- 'Ring-Fenced' interviews will determine which individuals should be appointed to 'Ring-Fenced' posts.
- There should be an expectation that a ring-fenced interview will result in an appointment to a vacant post.
- Where more senior staff are not appointed to posts at current level, they will be considered for posts at a lower grade. (Depending on difference in role, responsibilities salary) advice may be sought from HR on a case by case basis. Staff may be considered for the next one or two levels down only to be determined by job content.

#### **f. Vacant posts following Slotting and Ring-Fencing exercise**

- Staff will be notified of any posts that have not been provisionally assigned following the Slotting and Ring-Fencing exercise.
- Vacant posts will be advertised concurrently. Staff will be asked to provide a document expressing their interest in the role and outlining their skills, knowledge and experience for any posts they wish to be considered for. Shortlisted applicants will be considered for interview on the basis of their expression of interest, which should address the person specification requirements.
- Where staff who have not secured a post in the structure apply for vacant posts they will be considered for short-listing and interview assessment prior to external candidates.
- Preference for all vacant posts will be given to suitable permanent staff before making posts available to temporary staff

#### **g. Staff not appointed following the Slotting and Ring-Fencing exercise**

- Action will be taken to seek suitable alternative positions for staff not appointed following the Slotting and Ring-Fencing exercise and if necessary redundancy selection exercise; the school will seek to support this process.
- Staff who are not appointed to their desired post during the Slotting and Ring-Fencing exercise will have priority consideration for the remaining vacant posts arising from the Slotting and Ring-Fencing exercise. Where appropriate vacancies arise and individuals have the necessary skills, or could acquire these skills within a reasonable period to complement the school's needs, they shall be considered for these posts. Where possible, the Headteacher will consider developing new posts at the school to attempt to meet the needs of the school and the needs of the individual concerned.

## **h. Pay protection**

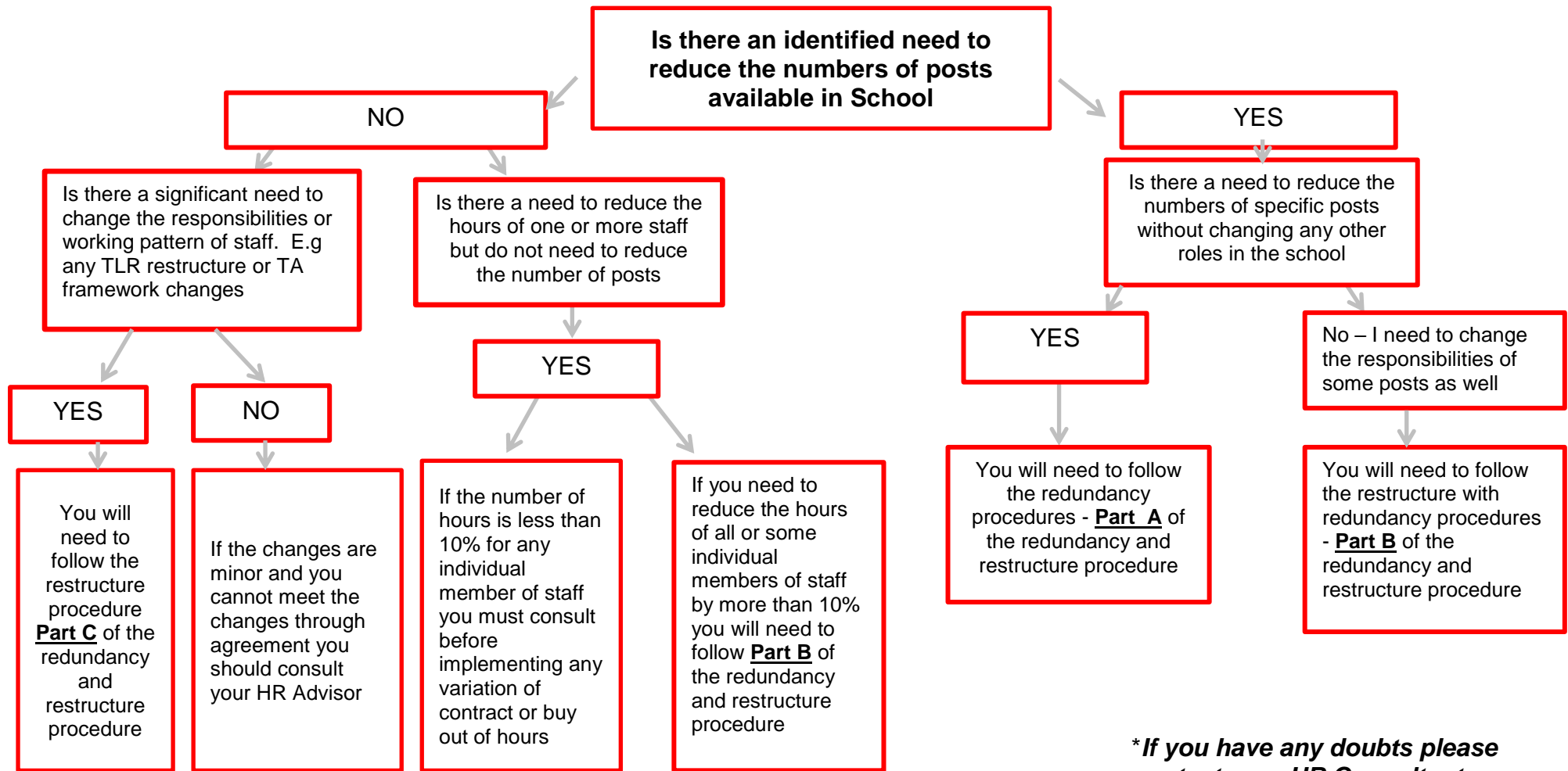
### **a. Teachers**

Where teaching staff are appointed to a lower salary post in the new structure as part of the restructure process, they will receive pay protection for up to 3 years in accordance with the STPCD. Pay protection for Teachers will commence from the date that the revised structure is implemented this will usually be the start of the following term or if this is part way through the term pay protection will start and the beginning of the following term.

### **b. Support Staff**

Where support staff are appointed to a lower graded post in the new structure as part of the restructure, they will receive pay protection for 2 years from the date of appointment if part of Derbyshire Package or the schools locally agreed package.

# Flow Chart to determine whether to follow the redundancy/ restructure procedure or both\*



***\*If you have any doubts please contact your HR Consultant.***

**PART A**  
**REDUNDANCY PROCEDURE**  
**ONLY (i.e. Reduction of**  
**Headcount only)**

## **i. Definition**

The statutory **definition** of **redundancy** is found in section 139 of the Employment Rights Act 1996.

This policy refers the part of the act which says that an employee who is dismissed shall be taken to be dismissed by reason of **redundancy** if the dismissal is wholly or mainly attributable to the fact that the requirements for employees to carry out work of a particular kind, or in that place have ceased or diminished.

The expression "work of a particular kind" refers to the work, not the post holder. In schools and academies, work of a particular kind may be subject specific, but not always. It will depend on the facts. For example if the employer has a reduced need to offer one subject matter but is choosing to offer another to replace it, it may not have a reduced need for employees if it is shown that the employees carrying out the work to be replaced can also teach the subject which replaces it, and the employer has the power within their contract of employment to require them to do so.

The expression "work of a particular kind" does not refer to the employment status (i.e. full time or part time) of the employees whose work it is.

The critical issues are, therefore, whether there is a reduced demand for employees to carry out work and whether that is the reason for the employees' dismissals.

## **ii. Redundancy Consultation**

The Governing Board recognises its duty to consult both informally and formally at the earliest opportunity with the **County Representatives** of the recognised Trade Unions and Professional Associations

Where it is proposed that there will be a reduction of headcount only and there are no other changes to the staffing structure, the Headteacher will alert employees to the situation at the earliest opportunity and explain the available strategies to effect the necessary reductions including providing them with access to a copy of the consultation (Section 188) notice. This will normally be done through a staff meeting.

## **iii. Consultation on Selection Process**

The Governing Board is committed to the use of a fair, consistent and non-discriminatory selection procedure.

At any stage throughout the process an employee is entitled to consult and be represented by a Trade Union, or Professional Association, colleague or friend.

Where the Local Authority is the employer, the Governing Board will seek the advice of the Strategic Director, Children's Services representative throughout the process in order that the

Strategic Director, Children's Services or representative may exercise the right to be represented at any meeting when dismissal is considered.

Where the Local Authority is the employer, the Strategic Director, Children's Services or representative will be asked to advise the Governing Board to ensure that it adheres to the legal requirements for redundancy consultation where required.

The Governing Board will consult with relevant Trade Unions and Professional Associations on all potential options, procedure, and selection criteria, recognising that different or changing circumstances may result in the adoption of different strategies.

The Governing Board will identify strategies within its allocated budget to ensure that it is able to meet the National, and the School's, curriculum requirements and the agreed Post Ofsted or School Improvement Plan.

Where there is a reduction in headcount which will result in one or more redundancies and subject to the constraints of the requirements of the Post Ofsted or School Improvement Plan and the school's curriculum statement all other things being equal the redundancy criteria set out in this policy will be applied.

#### **iv. Formal Consultation**

Formal consultation does not start until the Governing Board provides a Consultation Notice (and HR1, if applicable) in writing to County representatives of **all** the recognised Trade Unions and Professional Associations which will include:

- the reasons for the proposals
- full budget details including cost of each structure and future financial projections
- the number and descriptions of employees it is proposing to dismiss as redundant
- the rationale for choosing the categories of employees
- the total number of employees of any such description employed at the school
- the way in which employees will be selected for redundancy
- how the dismissals are to be carried out, including procedure, selection criteria and a timetable for the procedure over which the dismissals are to take effect; and
- the formula for determining redundancy payments
- arrangements for reasonable time off with pay to seek alternative work or to make arrangements for training
- Curriculum plan and/or current and proposed structure charts as appropriate

Consultation will cover the above issues and also ways of:

- Avoiding dismissals
- Reducing the number of employees to be dismissed
- Mitigating the effects of dismissals

The Headteacher will alert employees to the situation at the earliest opportunity and explain the available strategies to effect the necessary reductions including providing them with access to a copy of the Consultation (Section 188) Notice. This will normally be done through a staff meeting.

The Headteacher will arrange to meet with recognised Trade Unions. Staff and Unions may submit observations/responses in writing

The Headteacher will keep a record of all meetings with staff and key points. Individual staff who are directly affected by the proposals may wish to meet with the Headteacher.

Individuals will be consulted about impending redundancies at the earliest opportunity; be kept informed as fully as possible, and consulted on ways of avoiding redundancy, selection methods and possible alternative work.

The Governing Board will:-

- consider any representations made by the Trade Unions and Professional Associations
- reply to the representations in writing and if rejected give detailed reasons for rejection

Consultation will take place with the Trade Union(s) appropriate to the employees affected, whether or not any of the employees are Trade Union members. "Employees affected" means employees who are at risk of redundancy and those affected by measures associated with the redundancies e.g. employees taking on re-allocated work.

Employees on maternity/adoption leave, long term sickness absence, secondment and career breaks will also be formally consulted and appropriate arrangements put in place, e.g. inviting them to meetings, sending information to home addresses, visiting employees at home or communicating through appropriate representatives.

These requirements also apply when it is proposed to terminate contracts and offer re-engagement in order to implement changes in terms and conditions on which it has not been possible to reach agreement.

The number of informed individual and collective meetings throughout the formal consultation process should be appropriate to the scale and weight of change proposed to ensure that employees and Trade Unions are given sufficient opportunities to consider the proposals, ask questions and suggest alternative options. Headteachers should keep a record of dates, time of meetings, details of attendees and notes of the meetings.

The County Secretary (or representative) of Professional Association and Trade Unions should be invited to formal consultation meetings and employees are entitled to be represented by a Trade Union representative or a work colleague at individual meetings.

#### **v. Individual Consultation**

Any employee or groups of staff where the area of work they undertake is identified as being in scope of any reductions will be advised individually **before** any collective meeting.

#### **vi. Voluntary Redundancy Options**

All the possibilities of securing reductions will be examined.

After discussions with all employees, the Headteacher will proceed to more detailed discussions with the employees likely to be affected. The Governing Board will co-operate with the Local Authority in operating a countywide redeployment procedure.

### **vii. Selection Procedure**

If, after these consultations, insufficient employees wish to volunteer for redundancy or redeployment the Headteacher will report the position to the Governing Board and where applicable, the Strategic Director, Children's Services or representative. At the end of the Consultation period; The Governing Board will, if required delegate its First Committee, consisting of three of its members, to apply its agreed redundancy criteria, identify redundant posts and post holders and hear any written and/or oral representations which will be invited from individuals. The First Committee will be advised by the Headteacher and, where the Local Authority is the employer the Strategic Director, Children's Services or representative.

This Committee will also be delegated the responsibility for considering any voluntary option which may be formally requested at the end of the consultation.

### **viii. First Committee Meeting**

The First Committee will meet to identify redundant posts and post holders following the application of its agreed redundancy criteria

The First Committee will, by the next working day, notify in writing the employees identified and the relevant Trade Unions and Professional Associations of their intention to make their post redundant and the right of the employees to make written and/or oral representation to the First Committee.

The Strategic Director, Children's Services or representative will be asked to make arrangements for individual employees to discuss possible vacancies and measures that are available to mitigate the consequences of redundancy.

### **ix. Representations to the First Committee**

The employee(s) will receive at least 5 working days' notice of the meeting and will be informed in writing of the place, date, time and purpose.

The First Committee will consider any written and/or oral representations before reaching a decision and will inform in writing all employees concerned and relevant Trade Unions and Professional Associations of their decision by the next working day and, where applicable, the right of appeal.

Individuals will be advised in writing of the outcome and reminded of the deadline for registering an appeal.

In the event of an appeal against the decision of the First Committee, this must be made in writing to the Clerk of the Governing Board or nominee setting out the grounds of the appeal within 10 working days of the Committee's decision.

Should an employee not make representations to the first committee this does not negate their right to appeal.

## **x. Appeals**

Any appeal will be heard by an Appeal Committee consisting of the Governing Board, excluding all members of the First Committee and all other Governors involved in the decision or who have declared an interest which might influence the outcome.

The Appeal Committee will normally have 3 or more members. If the Governors identify that there will be insufficient Governors available to provide 3 for the First Committee and at least the same number, preferably more for the Appeal Committee then it may be necessary to elect 2 Governors for the First Committee. This will only be applied in exceptional cases when the number of eligible Governors is severely constrained by issues like declarations of interest or illness, or where the Governing Board is carrying vacancies.

The meeting will be called within 5 working days of receipt of the formal appeal notice, or by mutual agreement as soon as practicable thereafter. The employee will be informed in writing of the place, date, time and purpose of the meeting.

The employee will be entitled to attend the Appeal Committee with a Trade Union or Professional Association representative or friend who may present the appeal on behalf of the employee.

Where the Local Authority is the employer, the Strategic Director, Children Services or representative is entitled to attend the meeting for the purpose of offering advice to the Appeal Committee.

The Appeal Committee may uphold the appeal or confirm the original decision.

An appeal decision by the Appeal Committee will be final.

The Appeal Committee will determine the appeal and inform the individual employee, relevant Trade Unions and Professional Associations and Local Authority in writing of its decision by the next working day.

## **xi. Notification of Redundancy**

Where the Local Authority is the employer, the Governing Board will inform the Local Authority in writing of its decision, the reason for the decision, and the date of its implementation.

The Local Authority is under a duty, where appropriate, to issue a notice of dismissal within 14 calendar days of being notified by the school of the decision.

In all cases the School will notify the payroll provider of the employees who are leaving the school and inform them that the termination is on the grounds of compulsory or voluntary redundancy.

## **xii. Conclusion of Process/ Final stages**

At the conclusion of the process the School will continue to try and identify ways of mitigating any compulsory redundancies and should this be successful may withdraw a notice of redundancy at any time up until the termination date.

The School has a statutory responsibility to support any individual employee who has been selected for redundancy to secure alternative employment. This will include; offering them any suitable alternative work that becomes available in school, enabling them to access the redeployment support provided by the Local Authority, offering suitable training opportunities and allowing reasonable time off to seek alternative work and attend interviews.

Under the Redundancy Payments (Local Government) (Modification) Order 1983, if an employee selected for redundancy receives an offer of employment in Local Government or certain related bodies prior to leaving, which commences within four weeks of their last day of service with the school, they would not be entitled to the redundancy payment. Employees will be asked to certify that they have not received such an offer before the payment can be made. Where the Local Authority meets the cost of the redundancy payment Cabinet approval will be required before the redundancy payment will be made. Wherever possible the redundancy payment is paid into the employee's bank account on the pay date following the termination.

# **PART B**

## **RESTRUCTURE WITH REDUNDANCY PROCEDURE**

## I. Definition

It may be necessary to review the staffing structure of the school to enable the school to meet its long-term and short term strategic goals. In some cases the review of the staffing structure may result not only in a change of responsibilities and deployment to alternative roles but also a reduction in the number of posts required. In this situation the restructure and redundancy process are anticipated to run concurrently.

## II. Consultation on proposed new structure

The Governing Board recognises its duty to consult both informally and formally at the earliest opportunity with the **County Representatives** of the recognised Trade Unions and Professional Associations.

Where the Local Authority is the employer, the Headteacher will inform the Local Authority at the earliest opportunity of the need for staffing restructure and/ or where necessary staffing reduction, including redeployment, and will keep the Local Authority fully informed throughout in order that the Strategic Director, Children's Services or representative may exercise the right to be represented at any meeting when dismissal is considered.

Where the Local Authority is the employer, the Strategic Director, Children's Services or representative will be asked to advise the Governing Board to ensure that it adheres to the legal requirements for redundancy consultation where required.

Where it is proposed that there will more fundamental changes to the staffing structure e.g. changed or new roles are to be introduced in the school along with a reduction in the numbers of staff; there will need to be **genuine consultation** with staff to develop the new staffing structure.

### Setting the scene and gaining input from staff.

At the earliest opportunity all staff will be informed, preferably in writing of the drivers for change and any other contextual information affecting future school organisation – e.g. legislation, building developments, financial information and budget forecasts, available resources, pupil projections. Staff will be invited to discuss strategies to address the situation and given the opportunity to provide feedback either individually or collectively as a team. The Headteacher will arrange an informal meeting to outline plans and consultation process to union representatives with a view to seeking agreement on the consultation process and time scales.

### Refining the restructuring vision.

When all information has been assembled and any preliminary discussions have been conducted the Headteacher will formulate a draft staffing structure to be put to the Governing Board for approval as a basis for initial consultation to seek further feedback/views from staff/unions on the draft structure.

The Headteacher will write to all staff (including those that are absent, seconded etc.) and county representatives of recognised trade unions, on behalf of the Governing Board, to advise them of:

- the current and the draft proposed staffing structure
- the purpose and scope of review

- to whom queries about the process should be sent
- the timescale of the process, including the date of Governing Board meeting approving draft
- the consultation meeting arrangements, to be held with staff & unions
- the date for written responses from staff/unions
- the date of further Governing Board meeting to receive any consultation feedback following amendment to the draft structure (5 working days later\*)  
(\*these timescales are for a major restructuring and may be shortened for more limited proposals)

The Governing Board will meet to receive feedback from both staff and unions and determine whether to approve or undertake further consultation if making significant amendments (the Governing Board will need the documents at least 7 calendar days in advance of the meeting).

Before approving the draft structure for formal consultation the Governing Board may wish to make alterations.

### III. Formal Consultation

The formal consultation will cover ways of:

- Avoiding redundancy dismissals
- Reducing the number of employees to be dismissed on redundancy grounds
- Mitigating the effects of redundancy dismissals
- Staff making representations against provisional matching and ring-fencing recommendations

The formal consultation does not start until the Governing Board provide a Consultation (Section 188) Notice (and HR1, if applicable) in writing to County representatives of all the recognised Trade Unions and Professional Associations which will include:

- the reasons for the proposals
- the formula for determining redundancy payments
- the arrangements for reasonable time off with pay to seek alternative work or to make arrangements for training
- full budget details including cost of each structure (new one with and without safeguarding costs) and future financial projections including the section 52 outturn statement
- current and proposed structure charts
- proposed Job Titles, levels of responsibility payments (no names) and an indication of any initial assessment of management time. Existing job descriptions and person specifications should be made available wherever possible
- proposed line management responsibility
- proposed transition document indicating those posts which are new, those posts which are largely unchanged and therefore may be slotted to existing post holders, those posts which are a combination of several responsibilities previously in the structure and may be ring fenced to a number of existing post holders and any posts where there are less posts than current post holders and may be subject to

redundancy selection procedure via a skills audit process. The proposed method of selection should be included

- current and proposed Job descriptions and person specifications
  - where Single Status applies new support staff posts will need to be matched to existing profiles & job families and may need to be evaluated.
  - teachers Job descriptions may need to cover only the aspects of the post that attract the responsibility payment.
- safeguarding arrangements
  - current STPCD provisions will apply for teachers,
  - DCC negotiated provisions will apply for support staff, unless school has adopted own salary protection policy.
- proposed selection criteria where redundancy selection is required and a timetable for this procedure
- proposed curriculum plan and classes structure/sizes
- information on the proposed pools of staff at risk
- proposed redundancy selection assessment form where redundancy selection is required
- invitation for staff to express an interest in any voluntary options and deadline

As part of the formal consultation process staff will be given the opportunity to indicate which post(s) they should be considered for where their view differs from the Headteacher's/School Business Manager's as outlined within the draft transition document. In these circumstances, staff may make a written representation for the attention of the Headteacher/School Business Manager and a representative from the Governing Board, requesting that the original slotting and ring-fencing assessment be reviewed. The Headteacher/School Business Manager and nominated Governing Board representative will consider all representations and provide individual written responses before finalising the slotting and ring-fencing arrangements.

Individuals and unions will be consulted about impending redundancies at the earliest opportunity; be kept informed as fully as possible, and consulted on ways of avoiding redundancy, selection methods and possible alternative work

The Headteacher will keep a record of all meetings with staff and key points. Individual staff who are directly affected by the proposals may wish to meet with the Headteacher. The Headteacher will arrange to meet with recognised trade unions. Staff and unions may submit observations/responses in writing

The Governing Board will:-

- consider any representations made by the Trade Unions and Professional Associations
- reply to the representations in writing, and if rejected, give detailed reasons for rejection

Consultation will take place with the Trade Union(s) appropriate to the employees affected, whether or not any of the employees are Trade Union members. "Employees affected" means employees who are at risk of redundancy and those affected by measures associated with the redundancies e.g. employees taking on re-allocation work.

Employees on maternity/adoption leave, long term sickness absence, secondment and career breaks will also be formally consulted and appropriate arrangements put in place, e.g. inviting them to meetings, sending information to home addresses, visiting employees at home or communicating through appropriate representatives.

The number of informed individual and collective meetings throughout the formal consultation process will be appropriate to the scale and weight of change proposed to ensure that employees and Trade Unions will be given sufficient opportunities to consider the proposals, ask questions and suggest alternative options. The Headteacher will keep a record of dates, time of meetings, details of attendees and notes of the meetings.

The County Secretary (or representative) of Professional Association and Trade Unions should be invited to formal consultation meetings and employees are entitled to be represented by a Trade Union representative or a work colleague at individual meetings.

#### **IV. Individual Consultation**

Any employee or groups of staff where the area of work they undertake is identified as being **in scope** of any reductions will be advised either collectively or individually **before** any staff meeting.

#### **V. Voluntary Redundancy**

After discussions with all employees, the Headteacher will proceed to more detailed discussions with the employees who have expressed an interest. All the possibilities of securing reductions will be examined

#### **VI. Agreeing and Implementing the New Structure**

In accordance with the agreed timeline the Governing Board will meet and agree to adopt the draft structure with any amendments proposed as part of the consultation and accepted, or propose amendments which have not been the subject of consultation.

If amendments which have not been consulted upon, or if there are unresolved issues, the Governing Board will propose a further period of consultation. This will be notified in writing to staff and unions, with the timescale for considering the results of the further consultation (no less than one week). It is likely that the Governing Board meeting to will take place approximately 2 weeks after the original meeting called to consider approval of the structure. At the conclusion of the Governing Board meeting which approved the final version of the new Staffing Structure and accompanying documentation, the Governing Board will agree how this will be **published and communicated to all staff and unions**. The Governing Board will also note the implementation process and agree any governor involvement. The Headteacher or their representative will then write to staff who requested voluntary alternatives to the implementation of compulsory redundancies with the Governing Board's decision and also write to any staff with a matched post, where there is no competition for the post, and secure their acceptance of the post.

The Headteacher or their representative will write to relevant staff and:

- ask them to complete an expression of interest form for any post they wish to be considered for, provided that they are eligible for through the ring fencing arrangements. Interviews will then be arranged for new posts in the new structure, which are a combination of existing posts
- write to any post holders who are subject to redundancy selection, where there are more staff than posts available to issue a redundancy selection assessment form to be used for redundancy selection

Interviews will be held for any pools of staff for ring fenced posts, starting with most senior posts.

## **VII. The First Committee Meeting**

Once the restructuring process is complete the First Committee will meet to identify redundant posts and post holders.

The First Committee will receive an update on further staff movement and staff at risk because they were either;

- not successful at interview and have not been placed elsewhere
- they were identified as at risk of redundancy following the application of its agreed redundancy criteria

The First Committee will, by the next working day, notify in writing the employees identified and the relevant Trade Unions and Professional Associations of their intention to make their post redundant and the right of the employees to make written and/or oral representation to the First Committee.

Staff will receive written notification of the outcome of interviews, and the school will seek acceptance of post from successful candidates.

Staff affected by the re-structure, following final slotting, will be informed, if the outcome represented a pay decision, of the deadline for registering an appeal. In this case the grounds for appeal will be limited as the chance for challenge of JDs, salaries etc. was available in consultation process

The Strategic Director, Children's Services or representative will be asked to make arrangements for individual employees at risk of redundancy to discuss possible vacancies and measures that are available mitigate the consequences of redundancy.

## **VIII. Representations to the First Committee**

The employee(s) will receive at least 5 working days' notice of the meeting and will be informed in writing of the place, date, time and purpose.

The First Committee will consider any written and/or oral representations before reaching a decision and will inform in writing all employees concerned and relevant Trade Unions and Professional Associations of their decision by the next working day and, where applicable, the right of appeal.

Where an individual has been deselected following an interview process the Chair of the Interview Panel should be present at the representations meeting.

Individuals will be advised in writing of outcome and reminded of deadline for registering appeal.

In the event of an appeal against the decision of the First Committee, this will be made in writing to the Chair of the Governing Board or nominee setting out the grounds of the appeal within 10 working days of the Committee's decision. A copy of the appeal letter should be sent to the school for the attention of the Headteacher so that practical arrangements for the meeting can be co-ordinated.

## **IX. Appeals**

Any appeal will be heard by an appeal committee consisting of the Governing Board, excluding all members of the First Committee and all other Governors involved in the decision or who have declared an interest which might influence the outcome.

The Appeal Committee will normally have more than 3 members. If the Governors identify that there will be insufficient governors available to provide 3 for the First Committee and at least the same number, preferably more for the Appeal Committee then it may be necessary to elect 2 Governors for the First Committee. This will only be applied in exceptional cases when the number of eligible Governors is severely constrained by issues like declarations of interest or illness.

The meeting will be called within 5 working days of receipt of the formal appeal notice, or by mutual agreement as soon as practicable thereafter. The employee will be informed in writing of the place, date, time and purpose of the meeting.

The employee will be entitled to attend the Appeal Committee with a Trade Union or Professional Association representative or friend who may present the appeal on behalf of the employee. The grounds for the appeal may be on the application of the redundancy selection criteria, or the flaws within the selection/interview process.

In maintained schools, the Strategic Director, Children Services or representative will be entitled to attend the meeting for the purpose of offering advice to the Appeal Committee.

The Appeal Committee may uphold the appeal or confirm the original decision.

An appeal decision by the Appeal Committee will be final.

The Appeal Committee will determine the appeal and inform the individual employee, relevant Trade Unions and Professional Associations and Local Authority in writing of its decision by the next working day.

## **X. Notification of outcome**

Those subject to re-structure will be notified of the outcome in writing and pay statements will be issued which will include any safeguarding information.

The Headteacher will arrange with the Local Authority/ payroll provider for new contracts and notices of dismissal to be issued as appropriate.

The Local Authority is under a duty, where appropriate, to issue a notice of dismissal within 14 days of being notified by the school of the decision.

**PART C**  
**RESTRUCTURE ONLY (i.e. No  
Redundancy)**

## i. Definition

Any review of the schools staffing structure will be conducted with a view to ensuring that the management and deployment of all staff and the allocation of responsibilities and duties is effective and focused on teaching and learning to raise standards. All staff and internal representatives of recognised Professional Associations/Trade Unions will be consulted during the review. The Headteacher is under a duty to advise and assist the Governing Board in conducting the review and preparing the implementation plan. A restructure on its own without a reduction in the number of jobs will not lead to redundancies.

## ii. Consultation on proposed new structure

The Governing Board recognises its duty to consult both informally and formally at the earliest opportunity with the County Representatives of the recognised Trade Unions and Professional Associations.

Where the Local Authority is the employer, the Headteacher will inform the Local Authority at the earliest opportunity of the need for staffing restructure.

Where it is proposed that there will more fundamental changes to the staffing structure e.g. changed or new roles are to be introduced in the school there will need to be **genuine consultation** with staff to develop the new staffing structure.

### Setting the Scene and gaining input from staff

At the earliest opportunity all staff will be informed preferably in writing of the drivers for change and any other contextual information affecting future school organisation – e.g. legislation, building developments, financial information and budget forecasts, available resources, pupil projections. Staff will be invited to discuss strategies to address the situation and given the opportunity to provide feedback either individually or collectively as a time. The Headteacher will arrange an informal meeting to outline plans and consultation process to union representatives with a view to seeking agreement on the consultation process and time scales.

### Refining the restructuring vision

The Headteacher will seek feedback to refine the restructuring vision for the school and may wish to hold further preliminary discussions with particular individuals/staff groups, utilising any established consultation mechanisms, including with trade union representatives.

When all information has been assembled and any preliminary discussions have been conducted the Headteacher will formulate a draft staffing structure to be put to the Governing Board for approval as a basis initial consultation to seek further feedback/views from staff/unions on the draft structure .

The Headteacher will write to all staff \* (including those that are absent, seconded etc.) and school representatives of recognised trade unions, on behalf of the Governing Board, to advise them of:

- rationale for staffing review, the vision and pressures for change, in relation to meeting the current and future aspirations/ needs of the school
- current and proposed structure including current and new job descriptions and person specifications
- to whom queries about the process should be sent
- the timescale for the process including the date of the Governing Board meeting approving draft
- the consultation meeting arrangements to be held with staff & unions
- the date for written responses from staff/Unions
- the date of further Governing Board meeting to receive any consultation feedback (1 week later\*\*

\*in the absence of a school representative, employees should be encouraged to contact a county representative

\*\*these timescales are for a major restructuring and may be shortened for more limited proposals)

The Governing Board will meet to receive feedback from both staff and unions and determine whether to approve or undertake further consultation if making significant amendments (the Governing Board will need the documents at least 7 days in advance of the meeting)

Before approving the draft structure for formal consultation the Governing Board may wish to make alterations.

### **iii. Formal Consultation Process**

The following information should be made available as part of the formal consultation process, which will normally last 20 working days:

- proposed job titles, levels of responsibility payments (no names) and an indication of any initial assessment of management time
- proposed line management responsibility
- proposed transition document indicating those posts which are new, those posts which are largely unchanged and therefore may be slotted to existing post holders, those posts which are a combination of several responsibilities previously in the structure and may be ring fenced to a number of existing post holders
- current and proposed Job descriptions and person specifications
  - Where single status applies new support staff posts will need to be matched to existing profiles & job families and may need to be evaluated
  - Teachers Job descriptions may need to cover only the aspects of the post that attract the responsibility payment
- Safeguarding arrangements
  - Current STPCD provisions will apply for teachers
  - Derbyshire County Council negotiated provisions will apply for support staff, unless school has adopted own salary protection policy

- full budget details including cost of each structure (new one with and without safeguarding costs) and future financial projections where this is a driver for the restructure

As part of the formal consultation process staff will be given the opportunity to indicate which post(s) they should be considered for where their view differs from the Headteacher's/School Business Manager's as outlined within the draft transition document. In these circumstances, staff may make a written representation for the attention of the Headteacher/School Business Manager and a representative from the Governing Board, requesting that the original slotting and ring-fencing assessment be reviewed. The Headteacher/School Business Manager and nominated Governing Board representative will consider all representations and provide individual written responses before finalising the slotting and ring-fencing arrangements.

The Headteacher will keep a record of all meetings with staff and key points. Individual staff who are directly affected by the proposals may wish to meet with the Headteacher. The Headteacher will arrange to meet with recognised Trade Unions. Staff and Unions may submit observations/responses in writing.

Employees on maternity/adoption leave, long term sickness absence, secondment and career breaks will also be formally consulted and appropriate arrangements put in place, e.g. inviting them to meetings, sending information to home addresses, visiting employees at home or communicating through appropriate representatives.

The Headteacher may again informally seek further feedback/views from staff/unions on the draft plans, before submitting to the Governors Committee.

The consultation responses & meeting notes will be issued to the Governors committee 7 days before the meeting with the draft structure, showing any amendments proposed by Headteacher as a result of consultation, plus any proposed changes not incorporated and the reasons why.

The Governors Committee will:-

- consider any representations made by the Trade Unions and Professional Associations
- reply to the representations in writing, and if rejected, give detailed reasons for rejection

#### **iv. Agreeing and Implementing the New Structure**

The Governors committee will meet to consider the outcome of consultation and either:

- a) agree to adopt the draft structure with any amendments proposed as part of the consultation and accepted, or
- b) propose amendments which have not been the subject of consultation

If amendments which have not been consulted upon, or if there are unresolved issues, the Governors committee will propose a further period of consultation. This should be notified in writing to staff and unions, with timescale for considering the results of further consultation

(no less than one week). It is likely that the Governors committee meeting will take place approximately 10 working days after the original meeting called to consider approval of the structure.

The Governors committee meeting will:

- approve the final version of the new Staffing Structure and accompanying documentation
- agree communication to staff and unions which will include the final version of all documents subject to consultation
- note the implementation process and
- agree any governor involvement

The Headteacher will write to any staff with a slotted post, where there is no competition for the post, and secure their acceptance of the post.

Interviews will be held for any pools of staff for ring fenced posts, starting with most senior posts.

The Headteacher will write to staff with outcome of interviews, and seek acceptance of post from successful candidates

Relevant staff will be informed of their rights of appeal and of the deadline for registering an appeal. In this case the grounds for appeal will be limited as the chance for challenge of Job Descriptions, salaries etc. was available in consultation process

#### **v. Appeals**

The Appeal Committee will normally have 3 or more members. If the Governors identify that there will be insufficient governors available to provide 3 for the Pay Committee and at least the same number, preferably more for the Appeal Committee then it may be necessary to elect 2 Governors for the Pay Committee. This will only be applied in exceptional cases when the number of eligible Governors is severely constrained by issues like declarations of interest or illness.

The meeting will be called within 5 working days of receipt of the formal appeal notice, or by mutual agreement as soon as practicable thereafter. The employee will be informed in writing of the place, date, time and purpose of the meeting.

The employee will be entitled to attend the Appeal Committee with a Trade Union or Professional Association representative or friend who may present the appeal on behalf of the employee.

In maintained schools, the Strategic Director, Children Services or representative shall be entitled to attend the meeting for the purpose of offering advice to the Appeal Committee.

The Appeal Committee may uphold the appeal or confirm the original decision.

An appeal decision by the Appeal Committee will be final.

The Appeal Committee will determine the appeal and inform the individual employee, relevant Trade Unions and Professional Associations and the Local Authority in writing of its decision by the next working day.

**vi. Notification of outcome**

Staff will be notified of the outcome in writing and pay statements will be issued which will include any safeguarding information.

The Headteacher will arrange with the Local Authority/payroll provider for new contracts to be issued as appropriate.