

Hawridge and Cholesbury CE School



REORGANISATION TOOLKIT

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Contents

1.	Introduction	3
2.	Scope	3
3.	Roles and Responsibilities	3
4.	Principles	4
6	Planning	4
7	Communication & Consultation	5
7a	Downsizing.....	6
8	Implementing the New Structure	7
9	Individuals on Maternity/Adoption Leave	10
10	Individuals on Fixed Term Contracts	10
11	Appeals.....	10

1. Introduction

1.1 The Reorganisation policy sets out a framework for schools to operate within when considering or implementing a re-organisation. However, the policy should not be considered in isolation as some of the strategies or measures form part of other specific school policies/guidance. As a result the following policies will need to form part of the considerations and the processes set out in them applied accordingly:

- Schools redundancy policy
- Schools pay policy
- Maternity, Adoption and Parental Leave guidance.
- Bucks Pay Employment Conditions
- School Teachers Pay and Conditions

1.2 This toolkit has been designed as guidance to supplement the Reorganisation Policy for Schools. It aims to provide more detail on how the policy should be implemented and help guide headteachers through what can be a difficult process. Please read through this before seeking further professional advice from Human Resources.

- The guidance notes contained in the Toolkit are not mandatory but are intended to assist with promoting best practice in managing a reorganisation. It should be read in conjunction with the policy.

2. Scope

2.1 No further information - refer to policy.

3. Roles and Responsibilities

3.1 The Governing Body will need to ensure that appropriate committees are in place to formally take action or make decisions on their behalf. These may include the following:

- Staff dismissal (and appeals) committees
- Redundancy and Appeals committee
- Grievance/pay appeals committee

In the event that there might be insufficient governors available to ensure a committee is untainted and quorate it might be necessary to consider a formal collaboration arrangement with a partner school. Advice on this can be obtained from the Governor Support services team at the Buckinghamshire Learning Trust.

4. Principles

- 4.1 No further information – refer to policy.

5. Definition

- 5.1 In certain circumstances such as conversion to Academy status, Transfer of Undertakings (TUPE) regulations may apply. Advice is available via the HR Service Desk in the first instance.

6 Planning

- 6.1 Depending on the extent of the re-organisation a Planning/implementation team should be assembled at the earliest opportunity in order to drive the review, provide a range of experience, and give professional advice and assistance throughout the reorganisation process. The team could consist of the Headteacher, HR/Personnel Governor, Deputy Headteacher, School Improvement Advisor and School Business Manager. It is not appropriate to include individuals affected by the reorganisation. Advice should be sought at the outset from the School's HR provider, and it may be appropriate for them to be part of the planning/implementation team to ensure the correct process is followed and to ensure compliance with relevant employment law.
- 6.2 An equality impact assessment (EIA) is a tool to test whether new and existing services, strategies, plans, objectives and targets affect one or more groups of people differently. They identify direct and indirect discrimination, institutional discrimination and gaps in service provision. If there are any problems a plan should be put in place to resolve it and monitor progress. If a re-organisation affects how the schools services are delivered, or might have employment implications for staff an assessment should be carried out. Further advice should be sought via the HR Service Desk.
- 6.3 The design of the new structure/team should take account of the business needs of the school and any external feedback that might be necessary to address. This might include OFSTED feedback where a particular area has been identified as requiring attention/support or significant re-design. It may be that only one area of the school team needs looking at. In this case all of the staff directly affected would need to be formally consulted but it would make sense to consult all staff, to obtain feedback across the whole school on the proposed change. For example a re-structure of the Senior leadership team would potentially impact on line management arrangements across the whole school – it therefore makes sense to involve all staff in the consultation process to obtain their perspective on the proposed change.
- 6.4 Decisions on the grading of new or altered teaching posts will be taken by the Governing Body after taking advice from the Headteacher and an appropriate School Improvement professional. A decision on changing the salary grade for support staff posts may be made following formal job evaluation. A formal job evaluation process

provides an external, objective measure to arrive at a recommended salary range for the job role. The Governing Body will determine the range and grade of each post based on the requirements of the role profile and job summary. Where appropriate, these may be compiled following a formal job evaluation process undertaken by the Human Resources service. Bucks Pay (Schools) roles are evaluated using the Hay job evaluation methodology and provide a consistent benchmark for similar posts across Buckinghamshire schools. This can help to avoid potential equal pay claims across the Local Authority. Any assessment is provided as a guide for the schools only; it would be for the Governing Body, with advice from the Headteacher, to agree that the assessed range is appropriate based on the specific needs of the school.

7 Communication & Consultation

7.1 Communication plans will need to be relevant and reviewed on a regular basis. During the consultation process the plan could change (for example, where legislation changes affect the plan, or where unexpected resignations occur). The plan may therefore need to be revised and staff and unions kept informed on a regular basis of any changes that arise.

7.2 As a general guide, where the changes will involve any of the following circumstances, consultation will be required:

- A review to the schools published staffing structure (also refer to the school's pay policy and toolkit)
- The deletion of posts (also refer to the Schools Redundancy Policy)
- Redundancy (also refer to the Schools Redundancy Policy and Toolkit)
- Fundamental changes in the nature of the post, e.g. leading to a substantial re-write of the job description. This may or may not lead to a change of grade.
- The creation of posts that substantially affect how the school operates.
- Any negative impact on terms & conditions.
- Changes in reporting lines would not generally be considered a matter for formal consultation unless the change is accompanied by one of the above circumstances.

There is a requirement to consult with Trade Unions for at least 5 weeks, in accordance with local agreements. However it is possible to have a shorter period of consultation (3 weeks) where there is no potential detriment to employees.

HR can advise managers on the consultation process with the recognised Trade Unions.

7.3 Consultation involves exchanging views and opinions; it does not necessarily need to result in a mutually acceptable outcome, although all views should be considered

properly. When to start consultation, and with who, is a matter of judgement that will depend on the circumstances.

- 7.4 Throughout the reorganisation, and on occasions of potential redundancy, continuing dialogue with individuals should be maintained. Employees have the right to be represented or accompanied by a trade union representative or a work colleague at formal meetings.
- 7.5 In order to ensure that consultation is as meaningful and effective as possible it is helpful to involve Unions prior to the start of formal consultation to seek early opinions. It is sometimes useful (particularly in a large school) to seek opinions from School Union Representatives during the planning stages. This can help Unions understand the rationale to the proposed changes.
- 7.6 No further information - refer to policy and further guidance is available in the Redundancy Policy and Toolkit.
- 7.7 A requirement to consult with the recognised Trade Unions for a 5 week period applies whether or not, staff affected by the reorganisation are union members. In the interest of good employee relations, the Governing Body will continue to consult relevant Trade Unions/Associations or elected employee representatives when proposing to make any redundancies. In addition, case law has shown that dismissals have been found to be unfair where a Union has been consulted but not the individual.
- 7.8 Consultation must be undertaken with a view to reaching agreement with appropriate representatives. This duty applies even where the workers are volunteers – how can we make a volunteer redundant?. Failure to comply with the consultation requirements could lead to a claim for compensation, known as a protective award.

7a Downsizing

- 7a.1 In the event that that this will apply the school will follow the process set out in the Schools Redundancy Policy and will take all steps possible to avoid a compulsory redundancy situation.
- 7a.2 If it is evident that budget constraints are driving the reorganisation, and payroll costs need to be lowered, it is important to consider alternative strategies for reducing headcount over a period of time. This could minimise the impact on individuals who may otherwise find themselves in a transfer/redundancy situation. The longer the time frame available for reductions to be made, the more scope the Headteacher might have to consider alternatives. Having scoped, fully consulted and agreed the organisational shape, the following strategies should be considered:
- Vacancy freezes. E.g.: not replacing leavers
 - Reducing the use of temporary staff without infringing employment rights

- Reduction in hours where agreed with employees or allowed for in the contract of employment
- Flexible retirement (subject to approval)
- Redeployment of people from posts 'at risk' of redundancy to suitable alternative positions with the help of retraining

8 Implementing the New Structure

- 8.1 The old and new structure will be compared in order to identify objectively the impact on each individual. This will include all staff, even if they are absent from the workplace. E.g. on long term sick leave, maternity leave, paternity leave, secondments, sabbatical leave.
- 8.2 The Governing Body will consider any expressions of interest in volunteering for redundancy (as set out in the Schools Redundancy Policy); and take a decision whether or not to agree to any formal requests based on the business needs of the school.
- 8.3 Where a substantive job description has changed, a matching process will be used to determine whether the change is 'significant'. Depending on how the employee's job has been categorised, the Headteacher will individually advise each employee and confirm in writing that they are to be either:
- Appointed to a role in the new structure; or
 - Be ring fenced and enter a selection pool, i.e. these individuals will be in competition for a limited number of posts in the new structure;
- 8.4 A balanced approach will be used to assess employees in the selection pool using a range of weighted criteria. The overriding factor for selection is to retain those skills/competencies most essential for the new structure. Selection criteria may include:
- Skills or experience. Primarily this will need to be measured against the criteria required for the job to ensure that the most suitable individual is allocated to the vacant post. However, if information comes to light to suggest the individual has additional skills/qualifications to offer (for example, a teaching specialist in a particular subject area who can offer teaching in a different subject), this may form part of the considerations.
 - Standard of work performance. This should only be used where the standard of work performance has been addressed formally e.g. where the capability procedure has been invoked and is current.
 - Attendance record (you should ensure this is fully accurate and that reasons for and extent of absence are known).

- Disciplinary record (you should ensure this is fully accurate).

In all cases the school would need to objectively justify any decisions that have been made so the criteria above would need to be applied fairly and equally across all the staff in “the pool”. Individuals have the right to make representations against any decision to make them redundant, or appeal against any decision which could affect their pay. If this situation arises the committee would not be expected to share information about all staff (because of Data Protection requirements), but would need to explain their decision to the member of staff.

- 8.5 Individuals in ‘acting up’ positions should be selected to the new structure based on their substantive positions. However, if they have been ‘acting up’ for at least 12 months and there are vacancies at the higher level, they will be eligible to be placed into the selection pool for roles at the higher level. In order to secure a position at the higher level candidates will need to participate in the appropriate selection process, and at least, an interview.
- 8.6 The information below provides additional information that the School may need to be aware of when going through the selection process:

What is safeguarding/salary protection?

The principle is that any member of staff should not suffer a detriment for a change in pay due to circumstances beyond their control. An allowance (safeguarded amount) is paid to ensure that the full-time equivalent salary rate in the new role is the same as the rate paid for the new role. (NOTE: this applies only to changes in full-time equivalent salary rates – there is no safeguarding/protection applicable to protect part-time pay where hours are reduced).

Different arrangements apply for teachers and support staff – these are set out in the relevant conditions of service. For teachers, the usual terminology is to refer to “safeguarding”, for support staff the wording applied is “salary protection”.

A. Teachers (for detailed information refer to section 5 of the School Teachers Pay and Conditions document). The provisions around safeguarding are complex so the information provided below is an overview only. Advice should be sought from your HR provider if safeguarding is likely to apply.

When does safeguarding apply?

Where a teacher loses a post, due to an internal re-organisation and is re-appointed to a post a lower grade in the school OR where the grading of a post is reduced OR where an allowance (TLR 1, 2, SEN allowance or Unqualified teachers allowance) is removed.

How long does safeguarding apply for?

The safeguarding period applies from the day the new salary arrangements would have taken effect until the end of the term during which the third anniversary of the change occurred, i.e. 31 December, 30 April or 31 August. The safeguarding

arrangement would be reviewed however, if during the safeguarding period, for example:

- the teacher obtains a different post in the school;
- is promoted or awarded an allowance or combination of allowances which would mean their new total salary exceeds the former protected amount;
- any of the allowances were awarded for a fixed term period; in these case the safeguarding amount would end (or reduce) at the end of that fixed term period.

What is the safeguarding amount?

This depends on an individual's pay at the time of moving to a lower paid post.

What is the expectation on the teacher during the safeguarding period?

If the total of all the safeguarded sums payable amounts to more than £500 the school can allocate additional duties to equate to the safeguarded amount. Where a teacher unreasonably refuses to undertake the additional duties the safeguarded amount can be withdrawn, subject to the school giving the teacher one month's notice of its intentions.

B. Support Staff (refer to Bucks Pay Employment Conditions – extracts below italics)

When does Salary Protection apply?

“Where, through reorganisation or a grading review, an employee's grade is reduced their previous salary point at the time of the reduction will be protected, providing the new post is within 2 grades of the old post.”

How long does Salary Protection apply for?

“Protection will last for a period of 3 years from the operative date of the new post.”

What is the Salary Protection amount?

The Salary Protection amount is the difference between the salary of the former post and the salary of the new post. This includes any allowances payable. In the same way as for Teachers, it applies to a reduction in salary grade, and is only applicable to the full-time equivalent salary rate (FTE). Where a reduction in hours occurs but the FTE remains the same – salary protection does not apply

What is the expectation on the member of staff during the Salary Protection period?

There is no expectation on a member of the support staff to undertake “extra” duties during a salary protected period. However, the school should continue to consider the member of staff for any suitable roles on the previous salary range during their salary protection period. If an individual is offered and unreasonably refuses to take such a post the school can consider withdrawing salary protection. HR advice should be taken before taking any such action.

9 Individuals on Maternity/Adoption Leave

No further information – refer to policy and to the Maternity, Adoption and Parental Leave guidance.

10 Individuals on Fixed Term Contracts

- 10.1 Employment legislation determines that the expiry of a fixed term contract is a dismissal and the reason for the dismissal may be defined as redundancy. Whilst the individual may not be entitled to a redundancy payment (if they have been employed for less than two years), there is still a need to consult (See section 7) prior to the end of the fixed term contract.

11 Appeals

No further information – refer to policy.