

# School Restructuring Policy and Procedure

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## **1 PURPOSE**

- 1.1 This document sets out the school's approach to managing significant reviews of its staffing and structure which inevitably need to be carried out in response to its constantly changing environment and to deliver continuous improvements.

## **2 SCOPE**

### **2.1 Employees**

- 2.1.1 This policy and procedure applies to all Leicester City Council school-based employees.
- 2.1.2 Where a review/restructure involves teachers employed directly by Leicester City Council a decision will be made on a case-by-case basis, in consultation with the relevant trade unions, according to the particular circumstances, whether this policy and procedure or the council's Organisational Review Policy for other directly employed staff will apply. Whichever policy is deemed applicable, regard will be had for any relevant elements of the other policy.
- 2.1.3 Employees to be scoped into a particular restructuring exercise are all those in the part of the school under review, and any others whose duties/responsibilities may be impacted by the review, subject to the conditions below.

2.1.4 Temporary employees will only be included in scope of a review if they will have achieved two years' continuous employment with the council by the anticipated date of implementation of the new structure\*. Temporary employees may have been employed in different schools across the two year period. The important factor to consider is whether that period of employment has been continuous with Leicester City Council.

\*See also Temporary Employment Policy

2.1.5 Employees who are seconded (within, into or out of the school), or 'acting up', will be deemed to be in their substantive post if they will have been seconded/'acting up' for less than two years by the anticipated date of implementation of the new structure. After this time, an employee would typically lose any right to their substantive post, and will be deemed to be in their seconded/'acting up' post for the purposes of this policy. Legal advice should be sought where employees have been seconded/'acting up' for more than two years.

## **2.2 Circumstances**

2.2.1 A restructure will take place where the current structure of a school (or part thereof) is no longer considered to be fit for purpose and needs to be changed in order to meet the new requirements, or where savings need to be made. This will result in changed and/or new roles and may result in an overall reduction in the number of posts. Examples include:

- Creation of a new academic faculty/support service area, incorporating part/all of one or more existing areas
- Significant structural change within an academic faculty/support service area due to financial constraints or internal/external policy changes/initiatives/ requirements.
- Change to teaching and learning responsibilities (TLRs)

2.2.2 The policy does not apply in the following situations:

- Where there is any change to one individual post
- Changes in the activities undertaken within a department/support service area which do not fundamentally affect job roles or organisational/ reporting arrangements
- Relocation of work base\*
- Change of line management of an individual employee/team/ department/support service without any change in job content
- A reduction in the number of specific posts without other changes\*

\*See Redundancy Policy

### **3 PRINCIPLES**

- 3.1 A primary objective of a restructuring exercise will be to ensure that the needs of the school and its pupils are met through having the right posts filled by people with the necessary competencies.
- 3.2 Meaningful consultation with employees in scope of the re-structure and their recognised trade unions (including city-wide representatives) will be undertaken, providing them with the opportunity to influence the outcome and recognising the contribution they can make.
- 3.3 Communication with employees in scope of the restructure and trade unions will also be undertaken throughout the process.
- 3.4 Restructuring exercises will be conducted in a manner and at a pace that will endeavour to bring about changes within the required timescale which will be established at the start of the process, and which are outlined in the accompanying guidance document to this policy. Progress will be monitored regularly and any undue delays will be addressed.

### **4. PROCEDURE**

- 4.1 Set out below is the process to be followed in carrying out and implementing a restructuring exercise.

#### **4.2 Lead Manager**

- 4.2.1 The Lead Manager for a restructuring exercise will be the Head Teacher, henceforth referred to as the Lead Manager.

#### **4.3 Plan for change**

- 4.3.1 At the first indication of the need for restructure the Lead Manager will map out the proposed timescale over which the process is to take place, taking account of any financial imperatives or implications and the likely impact on the workforce, and draw up an action plan accordingly.
- 4.3.2 The Lead Manager will also identify HR, finance, and any other specialists whose advice must be sought before consultation commences and throughout the process.
- 4.3.3 The Lead Manager may, as part of the planning process, seek the views of employees who will be impacted by the restructure.

#### **4.4 Prepare a business case**

- 4.4.1 The Lead Manager will prepare a fully costed business case for the proposed change.
- 4.4.2 The business case could be based on the attached **template** which is designed to include all relevant information, but as a minimum, must explain the reason for change, details of the change to take place, relevant financial information, impact on staffing, including any redundancies which may arise, and details of how and when consultation will take place.

#### **4.5 Obtain approval for the proposals**

- 4.5.1 The Lead Manager must consult, and obtain approval for his/her proposals from the full governing body.

#### **4.6 Consult and communicate**

- 4.6.1 The approved business case will be the subject of consultation with representatives of the recognised trade unions. Where there is potential for the review to give rise to redundancies, as outlined in the Section 188 notification, the consultation must give consideration to ways in which redundancies can be mitigated against.
- 4.6.2 Where redundancies are likely, a Section 188 notice must be completed as part of the business case and should be presented to the full governing body as part of the approval process.
- 4.6.3 Consultation on revised proposals and any redundancies should run concurrently during the consultation process.
- 4.6.4 The length of the consultation period should be sufficient to enable meaningful consultation to take place, depending on the scale of the review and the impact of the proposed changes. There is no legally defined minimum consultation period where a restructure will result in no redundancies but, by local agreement, the minimum period in such cases is 20 working days. Any reduction in that timescale would be by mutual agreement. In cases where there is potential for redundancies to be made, consultation must start either 30 or 45 days before the first dismissals take effect.
- 4.6.5 Where the restructure will result in teacher redundancies sufficient time must be allowed for consultation and for teachers' notice periods to expire before the desired implementation date. To implement at the

beginning of the following term notice must be given by the end of October, February or May.

- 4.6.6 Other timescales associated with restructuring are outlined in the guidance document which accompanies this policy.
- 4.6.7 Trade unions and employees will be advised of the arrangements for them to respond to the proposals. When employees raise issues during the consultation period they need to be actively considered and responded to, with an explanation for the nature of the response given, within a reasonable timeframe and as appropriate. A final response may be provided at the end of consultation.

#### **4.7 The process of consultation**

- 4.7.1 The following process flow chart outlines the way in which consultation on the business case will be taken forward.

## Stage in process

## Actions to be carried forward

### Stage 1

Publish Business Case, to include:

- Timeline of restructure
- Post filling proposals
- Selection criteria, where appropriate, if redundancies are to be made
- Method of assessment for ring-fenced posts
- Communication processes
- Job descriptions and person specifications for any new/re-designed posts
- Details of any proposed voluntary redundancy processes
- An equality impact assessment

In order to facilitate collective consultation, the business case must be issued to trade unions ahead of staff in scope of the restructure. The business case may be sent via e-mail or issued at the commencement of an initial consultation meeting.

Release of business case signifies the start of the consultation process.

### Stage 2

Undertake meaningful consultation. Dependent upon the size of the restructure, this may be undertaken face to face in groups or with individuals, or via e-mail or communications bulletins, or any combination thereof. The overriding criterion is that **every** employee in scope **must** have a channel available to them to feed in their comments about all aspects of the business case. The Lead Manager must give consideration to the most effective means of engaging employees and must make active effort to do so.

### Stage 3

Issue of final business case post consultation and sign-off by the governing body, including the final post filling list, details of the evaluated jobs and, if VR is to be considered, mechanisms for considering VR requests, including timing and criteria for making decisions on VR applications.

### Stage 4

Appeal against post filling list

### Stage 5

Post filling commences

## **4.8 Issue the final business case**

- 4.8.1 The final business case, which may be subject to final sign off by the full governing body, will be issued to the trade unions and all employees in scope. It is this structure which the Lead Manager will implement.

## **4.9 Voluntary Redundancy**

- 4.9.1 Where redundancies are required, consideration will be given to inviting employees in scope of the restructure to volunteer for redundancy in order to mitigate against compulsory redundancies. However a number of factors, including cost considerations, will impact on whether this is appropriate and, if so, which categories of employee and at what stage of the process. Even if invited to volunteer, no employee has a right to be granted voluntary redundancy. Decisions will be based on the needs of the school and selection between volunteers will be necessary in the event of too many volunteers.
- 4.9.2 See the Redundancy Policy for further information.

## **4.10 Post Filling Process**

- 4.10.1 The detail of the post filling process for a particular restructure will depend on factors such as the extent to which posts in the new structure differ from existing posts and the number of posts of each type. The proposed process will form an important part of consultation to ensure that it is fair and transparent.
- 4.10.2 The following principles will apply:
- 4.10.3 Assimilation to posts in the new structure
- 4.10.3.1 Where a post in the new structure is the same, or essentially the same, as a post in the existing structure, the postholder(s) will be assimilated to that post unless there are more existing postholders than posts in the new structure.
- 4.10.3.2 Where there are more existing postholders than posts in the new structure an assessment process will be used to determine which employees are assimilated to the posts.
- 4.10.4 Ring-fenced recruitment to posts in the new structure
- 4.10.4.1 Posts in the new structure which are not filled by assimilation will be subject to a ring-fenced appointment process. The Lead Manager will draw up proposals regarding which postholders in scope of the

restructure will be ring-fenced to which post(s), taking account of all relevant factors such as similarity of duties to an existing post and post grade.

4.10.4.2 Ring-fenced employees will be provided with the job description and person specification for the post and will undergo an assessment process against the full person specification. Appointments will be made on merit, based on the assessment process.

#### 4.10.5 Employee preferences

4.10.5.1 Employees who are assimilated or ring-fenced to more than one post in the new structure may be invited to indicate their preference in priority order. The Lead Manager will take preferences into account wherever possible but there will be no right of appeal in relation to preferences.

#### 4.10.6 Posts not filled via assimilation or ring-fencing

4.10.6.1 Any posts which remain unfilled following the above processes may be further ring-fenced to other employees in the school. Otherwise they will be subject to normal recruitment arrangements.

### **4.11 Pay Protection**

#### 4.11.1 Teachers

4.11.1.1 Safeguarding provisions for teachers are set out in the School Teachers' Pay and Conditions Document. Currently, teachers will receive protection of TLR payments for a period of three years.

#### 4.11.2 Support staff

4.11.2.1 Where a member of support staff is appointed to a post up to two grades lower than his/her current post as a result of a restructure, his/her basic salary will be protected on a 'red-circled' basis for up to two years. This means that basic salary will be fixed at the level payable immediately prior to the appointment and no incremental progression or pay awards will be applied. Protection will cease when the basic salary for the maximum spinal column point of the grade of the new post equals or exceeds the protected salary, or after two years, whichever is the sooner.

### **4.12 Employees not assimilated or appointed to a post in the new structure**

4.12.1 Any employee who is not assimilated or appointed to a post in the new structure following completion of the ring-fenced appointment process



will be displaced in the restructure. As a result confirmation of redundancy will be sought from the governing body and, when received, the council will confirm the dismissal within 14 days of being notified in accordance with the School Staffing (England) Regulations 2009 (as amended from time to time).

4.12.3 If the employee has at least two years' continuous service with Leicester City Council an attempt will be made to find him/her suitable alternative employment within the school through redeployment where feasible. In exceptional circumstances, where the council is the employer, redeployment opportunities may be available outside the scope of the school.

4.12.3 See also the Redundancy Policy.

### **4.13 Rights of Appeal**

#### 4.13.1 Appeal against post-filling proposals

4.13.1.1 An employee has a right to appeal against the proposals regarding assimilation and ring-fencing as they apply to him/her. It is preferable for employees to have challenged the proposals during consultation, i.e. to have made representation to the Lead Manager about the proposed post filling list, prior to seeking to take formal action via the appeals process.

4.13.1.2 The appeal procedure is at Appendix A.

4.13.1.3 The outcome of the appeal will be final and binding.

#### 4.13.2 Appeal against redundancy

4.13.2.1 An employee may appeal against dismissal for redundancy as a result of a restructuring exercise. The appeal will be heard by a panel of governors not previously involved in the case. The panel will be accompanied by a HR representative.

4.13.2.2 The appeal must be registered in writing within 10 working days of receiving written notice of dismissal on grounds of redundancy. An appeal hearing will be convened and the outcome of the appeal will be confirmed in writing to the employee as soon as reasonably practicable.

#### 4.13.3 Appeal against post grade (support staff only)

4.13.3.1 There is no right of appeal against the grade of any different post to which an employee is appointed as a consequence of a restructure. However, following six months in a post which was evaluated within the

restructure, an employee may request a re-evaluation of its grade if he/she believes the post has changed and he/she can demonstrate those changes since the original evaluation.

## **5 MONITORING AND REVIEW**

- 5.1 This policy and procedure will be reviewed as necessary to ensure that it remains compliant with relevant legislation, and annually to ensure that it remains fit for purpose.

## **6 RELATED POLICIES AND PROCEDURES**

- 6.1 This policy should be applied in conjunction with other relevant policies and procedures such as:
- Redundancy Policy
  - Recruitment, Selection and Appointment Procedure
  - Temporary Employment Policy

## **7 MANAGERS' RESPONSIBILITIES**

- 7.1 The Lead Manager (or his/her nominee) is responsible for:
- identifying where this policy and procedure apply
  - ensuring the correct scoping of the restructuring exercise
  - ensuring that all aspects of the process are complied with, including preparation of the business case, consultation and implementation
  - ensuring that he/she consults, and obtains approval for proposals from, the governing body
  - seeking advice, as necessary, in relation to all of the above.

## **8 EMPLOYEES' RESPONSIBILITIES**

- 8.1 Employees are expected to participate actively in the consultation process, contributing any ideas and raising any concerns they may have.

## **DOCUMENT CONTROL**

<b>Implementation Date</b>	<b>Author</b>	<b>Summary of Changes</b>	<b>Date to be reviewed</b>
Agreed 27.11.2014 Individual school implementation dates subject to local determination	Stephanie Holloway	New policy	January 2016

**APPENDIX A****PROCEDURE FOR APPEALS AGAINST POST FILLING PROPOSALS**

- The employee must submit notice of appeal, on the Post Filling Appeal Form, within 7 working days of receipt of the final business case. The Lead Manager will advise to whom the form should be submitted. The notice of appeal must state the grounds on which the appeal is being made and be accompanied by any supporting evidence.
- The appeal form will be sent to the Lead Manager.
- An appeal hearing will be arranged as soon as possible after the appeal form is received. The appeal will be heard by a panel of governors not previously involved in the case. The panel may be accompanied by a HR representative.
- The employee may be accompanied at the hearing by a work colleague or a trade union representative.
- Prior to the hearing (and in reasonable time) the manager will provide the appellant with their response
- At the appeal hearing the appellant will present his/her case and the Lead Manager will provide a written response to be presented at the hearing.
- The outcome of the appeal should normally be announced at the end of the hearing or within a reasonable time, no later than immediately after any associated appeals have been considered.
- A written record of the appeal will be kept and the outcome will be confirmed in writing.