

Guidance for Head teacher/managers Implementing (Name of School) Reorganisation Restructure

Insert date

Notes:

- 1. This is a statement of good practice for head teachers/managers and does not confer any contractual entitlements.**
- 2. Terminology: the reference to Individual Consultation Meeting (ICM) below refers to the first meeting at implementation stage.**
- 3. All affected staff must be invited to an ICM. Normally staff should be handed a letter inviting them to the meeting. However, if staff are absent from work due to sickness, maternity leave etc the invitation letter must be posted to them with a date and time for the meeting.**

1. Agenda for the ICM

The important points for this meeting are to:

- (i) Clarify with the employee how the changes will affect them i.e. whether it is proposed that the employee will be assimilated into a post or the employee is at risk of redundancy;
- (ii) Explain to those employees who are in a ring fence situation and/or at risk of redundancy they are being given notice of termination in this meeting. This notice period will be in accordance with their contractual notice. They will be receiving confirmation of their actual termination date in writing;
- (iii) Inform the employee of their right to submit an appeal and the appeal form must be submitted by 5 days from the date of their confirmation letter.

Other items to discuss are:

- (iv) Explain to employees at risk of redundancy that they will need to participate in further stages of the process(see para 21.11);
- (v) Explain to those staff who are being assimilated this is subject to any appeals being received;
- (vi) Verify personal information and any details relating to their contract of employment;
- (vii) Explore any issues or matters of concern that the employee may have relating to the reorganisation;
- (viii) Advise the employee, if placed in a ring fence, of the requirements of the new post as outlined in the job description and person specification, and outline the selection process that will be used to select to the post;
- (ix) Explore any further options for the employee;

The enclosed ICM record form template (Appendix 6) must be completed listing each individual meeting with staff and retained.

An additional template is also provided for you to record such matters as comments made, and issues raised, by the employees at the meeting(Appendix 6). Any

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comments/issues must be raised with your HR representative. A copy of the record/notes will be provided to employees who request a copy.

General background

2. Timetable

Head teachers/managers are to conduct ICMs with affected employees from **insert date**

3. What are the agreed new structures?

Between **insert date** and **insert date** management carried out full consultation with the trade unions on the Reorganisation proposals. School Governors agreed the proposals **insert date**.

The report can be found in full on the (**insert where the report can be found**, e.g. school intranet, school office etc.). The school is now ready to implement the decision.

4. Who are affected employees?

Those employees whose posts are to be deleted or who are have been placed in an open or closed ring fence selection pool because of either a reduction in posts of a broadly similar nature or where there are similarities between old and new job descriptions/ person specifications but they are not broadly similar and/or the new post would represent a promotion as a result of the new structures.

5. Who is head teacher/manager meeting at the ICM?

Affected employees who:

- Are proposed for assimilation; or
- Have been placed within a ring fence; or
- Are in a redeployment situation.

6. Arrangements for the ICM

A template letter for Head teachers to hand to their affected employees inviting them to a meeting is available. Head teachers should already have scheduled the ICMs, inviting them to meet from **insert date**. (See Appendix 5 – template letter)

Head teacher/managers should only send the invitation letter to the home address of an employee if the employee is absent from work and will otherwise not receive it in good time.

That letter makes it clear that employees have the right to be accompanied to the meeting by a trade union representative or colleague.

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Head teachers/managers are advised to have an HR Advisor present at the ICM if one is available, but it should not be delayed because of HR unavailability.

7. Absent employees

Head teacher/managers will need to notify their HR provider of all affected employees who are long term absent from work other than by being on annual leave e.g. those absent through long term sickness, maternity leave, and career break. The HR Adviser should be consulted with a view to head teachers/ managers arranging ICMs having regard to these employees' individual circumstances.

If staff are absent due to short term absence on the day of their meeting arrangements should be made to re-convene the meeting as soon as possible.

8. Required Documents for head teacher/ managers

In readiness for the ICM, head teacher/managers will have:

- The invitation to meet template letter to affected employees.
- This guidance;
- The template to track the application of HR processes for affected employees, to be completed by head teachers/managers.
- The note of meeting template (Appendix 6);

9. The HR Process for Managing Change

The processes for dealing with:

- Assimilation;
- Open and Closed Ring fencing;
- Redeployment;
- Voluntary redundancy;
- Compulsory redundancy, and;
- Appeals

10. Outcome of the Consultation Meeting

If an employee is dissatisfied with proposals to (or not to) assimilate them or place them in a ring fence, then the employee should submit an appeal to Governors.

11. Second Individual Consultation Meeting

Employees who continue to be at risk after ring fenced competition will be invited to a second individual consultation meeting. The purpose of which is to:

- Confirm that the employee is still at risk and under notice of redundancy;
- Discuss the next steps;
- Outline the School's approach to suitable alternative employment;
- Outline the Schools approach to compulsory redundancy;

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- Consider any alternative options that may be available to avoid the employee being made redundant, for example, job share.

12. Compulsory redundancy

Employees who remain at risk following consideration of assimilation, ring fencing and redeployment will face compulsory redundancy, unless they have made an application for voluntary redundancy that the school has accepted. In these cases the employee will have a final individual meeting where the date of termination of employment, as notified at the first meeting, will be confirmed.

13. Notice of termination

All employees whose employment with the school is terminated by reason of redundancy will receive notice of dismissal in line with their contractual entitlement.

The notice of termination will commence on **insert date** and staff will normally be expected to work their notice period in full. Any proposal for part or all of the notice period not to be worked must be discussed with the school's Schools Traded HR service before giving agreement.

Any estimates of redundancy and early retirement benefits (if appropriate) payable will be provided at the Second Individual Consultation meeting.

14. Appeals

Head teacher/managers must inform employees that they are entitled to raise an appeal in writing within 5 working days of the date of their letter regarding any decisions taken under the assimilation, ring fencing and redeployment processes.

On the basis that all ICMs are held in accordance with the timetable, it is anticipated that all appeals arising from the proposals communicated in that meeting will have been submitted five days after the date of the letter at the latest.

15. Appeals against dismissal

Head teacher/managers must inform employees that they are entitled to appeal to the school governors regarding their selection for redundancy in accordance with the school's Organisational Change and Redundancy Procedure again within 5 days of receiving written confirmation of the meeting.

16. Workplace Options

Workplace Options are the Employee Assistance providers and all employees should be reminded of the availability of this confidential service.

17. Trade unions

All employees should be reminded that if they wish to contact their trade unions they can do.

18. Queries

Head teacher/Managers should contact their traded HR provider for advice.

19. Assimilation – Questions and Answers

20. Who has decided that an employee should be offered assimilation into a particular post?

The relevant Head teacher/Line manager/Governor has agreed the work in consultation with the Line manager.

21.2 What is Assimilation?

Assimilation is when an employee moves from their substantive post in the old structure to a broadly similar post in the new structure without the necessity for an interview. In deciding what an employee's substantive post is for the purposes of assimilation, ring fencing and redeployment, no account will be taken of any honoraria, secondments, acting up or other temporary arrangements currently in place (irrespective of the length of those arrangements).

21.3 When will the school offer to assimilate an employee?

When:

- (i) the essential requirements of the employee's substantive job description and person specification are broadly similar to those of the new post, and
- (ii) there are no other employees who have a comparable claim to the post by reason of assimilation. Assimilation may only occur where the difference in grade between the substantive and new post is not more than 1 grade up or down.

21.4 Are there any protection of salary arrangements?

Yes, salary protection arrangements will apply where employees, as an alternative to redundancy, are offered, and accept, a post on a lower grade than their existing substantive grade e.g. upon assimilation or upon accepting a suitable alternative post.

The arrangements and process are set out in the school's Organisation Change and Redundancy Procedure.

21.5 Is an employee being asked to agree to the assimilation?

Yes, the school is asking an employee to agree in writing to their assimilation where there is some change in the duties/terms and conditions between the employee's substantive post and the new post.

21.6 What if an employee disagrees with their assimilation into a particular post?

The employee should commence the appeal procedure in accordance with paragraph 14 above using the appeal template.

Similarly, an employee should submit the appeal template stating their grounds if e.g. the employee considers that they should be assimilated into another post or placed in a different ring fence;

21.7 What if the employee's appeal against a proposal to assimilate is not upheld?

If the outcome of the appeal is that the employee has been properly offered assimilation into a particular post, then the employee will be asked again to agree to the assimilation.

If the employee is still not prepared to agree to their assimilation, the head teacher/manager must discuss this with their traded HR Adviser obtain legal advice.

In taking legal advice consideration will be given to such matters as the contractual position, whether the employee's contract of employment contains a flexibility clause enabling the school to make reasonable amendments to the contract or whether an alternative legal mechanism of making contractual changes should be considered i.e. the dismissal of the employee, who will then be offered re-engagement on new terms.

21.8 Will an employee be entitled to a redundancy payment if they do not agree to be properly assimilated into a particular post?

No.

21.9 Where an employee is proposed for assimilation, should they be served with notice of redundancy?

No (but see paragraph 21.11 below).

21.10 What happens if there is more than one employee with a comparable claim to be assimilated into a particular post?

There will be a ring fenced selection process.

21.11 What if another employee successfully submits an appeal making a claim to a post that has been proposed for assimilation for someone else?

It is possible that although an employee is proposed for assimilation into a post, another employee(s) may succeed in an appeal claiming comparable assimilation rights to that same post. In those circumstances those employees will instead be placed in a ring fence and will take part in a selection process for that post. As those employees will then be at risk of redundancy, they will all be served with notice of redundancy in **insert date** at face to face individual consultation meetings with their head teacher/manager. The school will withdraw notice of

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redundancy if an employee is appointed to a post in the school within the notice period.

21.12 When will management confirm a proposal to assimilate an employee?

Not until after all appeals should have been received regarding assimilation and placement within ring fences.

21.13 Does an employee who has been offered assimilation have to be also be offered a statutory trial period in the new post?

Yes, if the duties of the new post differ (even in part) from the duties of their substantive post.

22. Ring fences – Questions and Answers

22.1 What is a ring fence?

A selection pool of employees, who either meet the criteria set out in paragraph 22.2 below for closed ringfences or, where there are similarities between old and new job descriptions/person specifications but they are not broadly similar and/or the new post would represent a promotion, for open ringfences.

22.2 What are the criteria for deciding whether an employee is placed in a closed ring fence?

The school has placed employees in a closed ring fence where:
(i) the essential requirements of the employee's substantive job description and person specification are broadly similar to those of the new post, and
(ii) there are other employees who have a comparable claim to the post by reason of assimilation.

Ring fencing may occur where the difference in grade between the substantive and new post is not more than 1 grade up or down.

The objective when drawing up the ring fences has been to affect the least number of employees and to minimise the number of ring fences.

22.3 What are the criteria for deciding whether an employee is placed in an open ring fence?

The school may place employee in an open ring fence where there are similarities between the old and new job descriptions/person specifications but they are not broadly similar and/or the new post would represent a promotion.

The selection process in an open ring fence will be to appoint following successful interview only. Any posts that remain unfilled will be recruited to in accordance with normal recruitment and selection processes.

22.4 Who has decided which employees should be placed in a ring fence?

The Head teacher/Governor.

22.5 Should employees who are placed within a ring fence be given notice of redundancy?

Yes, at the ICM.

22.6 Should an employee who has been placed in a ring fence be told who else is in that ring fence, if they request that information?

Yes, because an employee in a ring fence may wish to submit an appeal on the ground that they consider they should have been assimilated and that no other person in their view has a comparable claim to the post.

22.7 What is the process for selection from a ring fence?

See pages 11 and 12 of the school's Organisation Change and Redundancy Procedure.

All ring fenced employees are required to participate in the selection process and will be asked to complete an internal application form.

Selection in a ring fence will be based on an interview for those employees whose substantive grade is S02 and below, whilst for those graded P01 or above the selection process may also include tests appropriate to the grade and requirements of the new post e.g. a written test/presentation.

The selection process will be used to determine:

- (i) whether employees in a ring fence have the required competencies as detailed in the job description and person specification for the new post, and
- (ii) which employee should be appointed on merit to the new post on the basis of best meeting the needs of the school in the provision of an effective and efficient service to the public.

A selection panel will consist of at least two head teachers/managers, and preferably three, will follow the principles of the recruitment & selection procedure and will ensure the panel reflects a mix of gender and race wherever possible. Head teacher/managers should also consider reasonable adjustments for staff with disabilities, both at the interview stage and to enable the person to undertake the new role.

Please note that it was agreed with the trade unions as part of the consultation process that the selection process will appoint to all of the posts within the closed ring fence from the selection pool for that particular ring fence. However, the school also has to comply with legal obligations towards displaced employees who are on maternity leave or adoption leave and they may have priority for vacancies.

22.8 Has any employee been placed in more than one ring fence?

Generally no, because employees have been placed in the ring fence that the Head teacher considers to be the best match

22.9 Can an employee apply to go in more than one ring fence?

Yes, if an employee considers that they meet the criteria in paragraph 22.2 above in relation to another post, then that employee can appeal to go in that additional ring fence. The employee does this by completing the appeal template. The appeal will then be dealt with in accordance with paragraph 14 above. Employees wishing to apply for more than one post should be asked to submit a single application form, addressing the particular specifications for each post. Applications will be assessed through a single interview and selection process, where appropriate. Employees should not wait until the outcome of their appeal to submit an application form for a post. However, if their appeal is not upheld their application for that particular post will not proceed.

22.10 When will ring fenced selection interviews/tests take place?

They are due to commence from **insert date/s**. However, where there are outstanding appeals relating to a particular ring fence, the selection process for that ring fence will not usually start until the outcome of the appeal process.

22.11 Will there be interview training

Yes, for affected employees who are in a ring fence (or who are in a redeployment situation) on application and selection techniques in relation to internal selection processes. To apply for this training, employees should contact **insert contact details**

22.12 Will estimates regarding severance and pension information be available at the ICM?

No, it is anticipated that they will be provided at the Second Individual Consultation Meeting.

22.13 When will candidates in the ring fence be notified of the outcome of the selection process?

It is anticipated that the results of the ring fenced selection process will be shared with the candidates as soon as possible after completion of the interviews.

22.14 Will an employee who is successful in a ring fence be offered a trial period in the new post?

Yes, see paragraph 21.13 above.

23. Redeployment – Questions and Answers

Employees who are not assimilated or successful within a ring fence will become a redeployee in accordance with the process detailed in the school's Organisation Change and Redundancy procedure. These employees must be served with an at risk notice at the first individual consultation meeting.

The following Questions and Answers may assist in dealing with redeployees.

23.1 Will the school release agency workers if they occupy posts that would provide suitable alternative employment for redeployees?

Yes, the release of agency workers will usually be timed to enable this to happen.

23.2 What is the period of the job search for the purposes of redeployment?

The employee's remaining notice period.

23.3 Is it correct that in considering the suitability of alternative posts for redeployment the question is whether it is suitable for that particular employee?

Yes.

23.4 Who will match redeployees against suitable vacancies?

When suitable vacancies arise, the Head teacher will proactively match and consult with the redeployee as to a potential match. The responsibilities of the employee are listed in the schools Organisation Change and Redundancy procedure. Head teacher/managers must keep a written record of discussions with the affected member of staff on redeployment opportunities. Ideally these discussions should be held weekly.

23.5 What if there is more than one redeployee who would be a match for a suitable vacancy?

The employees would be placed in a ring fence selection pool for that post and would be required to participate in the selection process (as in paragraph 22.2 above).

23.6 If there is only one redeployee who would be a match for a suitable vacancy will the redeployee still be interviewed?

Yes, the redeployee will be interviewed/undertake selection tests, unless it is a post that would meet the criteria for assimilation.

23.7 Will the school externally recruit to a post where there is a suitable redeployee?

No. The school wishes to retain the skills and experience of its existing employees. The school is also obliged to consider ways of avoiding dismissals and of reducing the numbers of dismissals.

23.9 If an employee refuses an offer of suitable alternative employment they will lose entitlement to redundancy pay?

Yes.

23.10 What is the position of those affected employees with maternity rights in terms of redeployment?

An employee with maternity rights has the right to her old job back when she returns to work from maternity leave. If a redundancy situation arises during their maternity leave, then the school **MUST** offer the employee any suitable alternative employment that is available.

23.11 What is the position of those affected employees who are fixed-term employees?

The procedures/processes outlined in the HR Process for Managing Change apply to fixed-term employees, but not agency workers, consultants or those employed by a third party to perform particular functions for or on behalf of the Council.

Under the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002, fixed-term workers have the right not to be treated less favourably than comparable permanent employees on the ground that they are fixed-term, unless the different treatment can be objectively justified on a case by case basis.

23.12 Can a redeployee submit an appeal if e.g. they consider they should have been considered a suitable match for a post?

Yes, by completing the appeal template as outlined in paragraph 14 above.