

## **Restructure and Reductions**

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# 1. Purpose

There may be occasions when the school needs to reduce staffing levels and/or carry out a restructure which may or may not lead to redundancies. This policy provides a framework for the management of restructuring and/or redundancies. It ensures that any changes are implemented in a methodical and efficient manner, specifically ensuring that:

- full consultation takes place with affected employees together with the appropriate trade unions and professional associations;
- each employee’s wishes are fully considered as well as the educational and operational efficiency of the school;
- the period of uncertainty for affected employees is kept to a minimum, balanced with the school’s commitment to provide as much notice as possible of changes, allowing for voluntary solutions;
- all potentially affected employees are aware of this policy;
- the relevant employment legislation requirements are met.

# 2. Scope

The policy and the how to guide apply to:	<ul style="list-style-type: none"><li>• Teachers</li><li>• Support staff</li></ul>
The policy and the how to guide do not apply to:	<ul style="list-style-type: none"><li>• Volunteers</li><li>• Contractors</li><li>• Agency workers</li></ul>

The policy and the how to guide do not apply to genuine casual workers. Care needs to be taken to ensure that such workers have not accrued employment rights. Advice must be taken from Education Personnel Services in this situation and more information is available in the Manual of Personnel Practice.

This policy is non-contractual and does not form part of any employee’s terms and conditions.

The policy applies to all restructures and redundancies in a school’s staffing establishment.

Employees are actively encouraged to contact their professional association/ trade union representative at the earliest opportunity to obtain advice and support at any time.

The school expects all parties to maintain confidentiality throughout the application of the policy.

### 3. Definitions

(shown in alphabetical order)

<b>Continuous service</b>	The period of service that an employee has with the same employer. Where Hampshire County Council is the employer in a school, an employee's continuous service may have been accumulated in one or more other HCC schools or departments within HCC. For the purposes of calculating a redundancy payment, continuous service under the 'Redundancy Modification Order' will be counted (this Order includes other local government employers where service would be considered as 'continuous' if there has been no break).
<b>Group One employees</b>	<ul style="list-style-type: none"><li>• Staff on permanent contracts, regardless of length of continuous service.</li><li>• Staff on fixed term/temporary contracts who have <b>at least 4 years'</b> continuous service (regardless of the reason for the fixed term/temporary contract).</li><li>• Staff on fixed term/temporary contracts who have <b>less than 4 years'</b> continuous service and whose contract is <b>not</b> linked to the need to restructure (for example, covering sickness or maternity leave).</li></ul>
<b>Group Two employees</b>	<ul style="list-style-type: none"><li>• Staff on fixed term or temporary contracts who have <b>less than 4 years'</b> continuous service and whose contract <b>is</b> linked to the need to restructure (for example, due to budgetary needs or anticipated reduction in school staffing).</li></ul>
<b>Manager</b>	<p><b>For teaching staff:</b> a manager in the leadership group.</p> <p><b>For support staff:</b> either a manager in the leadership group or the appropriate line manager as identified in the school staffing structure.</p>
<b>Representative</b>	A representative of a professional association or trade union who is accredited to accompany a member when the member is subject to formal procedures where they are entitled to be represented. Alternatively, an employee may be accompanied by a work colleague where they are entitled to be represented.
<b>Restructure</b>	<p>Any organisational change within a school staffing establishment that might affect the terms and conditions of employees, for example:</p> <ul style="list-style-type: none"><li>• a change in working arrangements, for example a change of shift pattern or working hours;</li><li>• a change of roles or responsibilities within a group of staff (which may or may not affect pay);</li><li>• a reduction in the number of staff of a particular type which may involve the termination of employment of staff as a result of redundancy.</li></ul>

TLR

Teaching and learning responsibility payment.

## 4. Principles

### Guidance

This how to guide provides information about the procedure to follow when managing the staff aspects of a restructure and/or staffing reductions of one or more groups of staff within the school. It provides detailed information to:

- meet the requirements of employment legislation;
- set out the process to follow including timescales and responsibilities associated with it.

Throughout this guide, the word 'must' is used as a 'requirement' of the policy and procedure. The word 'should' is used to indicate actions or processes that are considered to be best practice.

Please note that the section numbering in the policy and this how to guide are not aligned, though the step numbering for the process to follow is consistent in both documents.

### Exclusions

The policy and how to guide specifically exclude local authority-driven major reorganisations in or across schools which fall into the category of **school mergers** (see School Mergers and Amalgamations Procedure) and **school closures** (see School Closures – A suggested approach to personnel procedures). The separate procedures for these scenarios are designed to cover those specific circumstances.

### Management of the process

This document has been written in the second person to address the manager who is leading on the restructure or redundancy process, referred to throughout the document as 'you'. In most cases, this manager will be the headteacher of the school, though depending on the nature of the process and the size of the school this may be delegated to another senior manager.

### Advice and support

While this how to guide contains detailed guidance and links to template letters and other documents, this should be supplemented by advice and support from a caseworker from Education Personnel Services, where the school has a service level agreement with Education Personnel Services. Every restructuring or reductions scenario has its unique features and it is not possible to cover every combination of circumstances in this guide. Please contact Education Personnel Services if you have queries at any stage of the process and/or if you need advice on adapting the model documentation provided.

### Policy principles

The school will enable as many staff as possible to remain in employment in the school. The process will focus on accommodating all existing staff wherever possible in accordance with their skills, qualifications and expertise.

Employees who have been identified for potential redundancy will be assisted in seeking suitable alternative employment.

Priority will be given to the identification of voluntary solutions prior to the implementation of any compulsory redundancy. However voluntary solutions do not include volunteering for redundancy.

The school will make every effort to anticipate future changes and so reduce disruption to staff on implementation of a restructure. This will include making temporary appointments instead of permanent appointments, subject to the specific needs of the school.

Any employee directly affected by the provisions of this policy will be able to access appropriate advice, i.e. the school will facilitate meetings with representatives while minimising disruption to the education of pupils.

A copy of this policy and how to guide must be provided to any member of staff who is directly affected by its provisions.

## 5. Introduction

### Governance

**Maintained Schools** – the full governing body may delegate to the headteacher the authority to make a decision to dismiss an employee. This responsibility must not be delegated to any employee other than the headteacher.

**Academies** – the governing body have complete discretion to delegate the authority to make a decision to dismiss an employee. There must be clear minutes to record what has been delegated.

### Timescales

Two timelines are included in this guide, in Section 8. Timeline A outlines the potential timescale for staff reductions and Timeline B should be used when ending fixed-term and/or temporary contracts.

When planning a staffing reduction, there will be an implementation date. To achieve the implementation date, there are critical milestones which must be completed on time. This is particularly important for teaching staff whose employment can only be ended on three dates in the year (at the end of each term) and therefore notice must be issued in sufficient time to enable this. Missing the date is likely to result in employment continuing for a further term.

You are advised to review in advance the timelines provided in this guide and diarise each stage. You are specifically advised to book dates at the outset of the process for the following activities:

- the full governing body meeting (Step 4);
- the formal consultation meeting with union and professional

association representatives (Step 6) – please note that there are often pre-arranged dates already scheduled for this meeting;

- dismissal hearings (Step 11);
- appeal hearings (Step 14).

You will also need to agree these dates with your adviser from Education Personnel Services to ensure availability for these key dates.

### **Committee constitution**

For potential dismissal and appeal hearings (Steps 11 and 14) you will need to ensure that your governing body has:

- properly constituted a dismissal committee;
- properly constituted an appeal committee;
- identified for each committee three governors (with an additional governor in reserve) and a clerk.

Where the school is following a staff reductions process, it is appropriate to:

- review membership of these committees;
- identify potential hearing dates during the full governing body meeting which takes place at Step 4.

### **Delegation to Headteacher**

The governing body may delegate to authority to dismiss staff to you as headteacher. It is likely that you will be closely involved in a full redundancy or restructuring process and in that situation, even if you have delegated authority to dismiss, it would be more appropriate for a governors committee to deal with any dismissal and appeal.

However the process for ending a fixed term or temporary contract is most easily achieved where you as headteacher have been given delegated authority to dismiss. Where this authority has not already been delegated, you are advised to seek such authority from the governing body.

### **Recognising individual situations and continuous service issues that require further advice**

This guide has been written to cover the majority of straightforward cases. Please contact Education Personnel Services for further advice, particularly in the following example scenarios:

- The employee has **more than one position** within the school, and/or in another school or elsewhere within Hampshire County Council, and/or the employee has had a succession of local government employers prior to working for the school and/or Hampshire County Council. This is unlikely to result in an adjustment to the process but will have implications for continuous service dates and the calculation of any benefits due.
- The **status of the school has changed** during the employee's employment (for example, the school changed from a community school to a voluntary aided, foundation, trust or academy

school). Care must be taken to use appropriate continuous service dates and to use the correct procedure: for example, academy staff may have TUPE-transferred across on an old redundancy procedure which precedes the one on which this policy and guide are based.

- The employee is on (or due to go on) **maternity leave**.
- The employee is absent due to **sickness**.
- The employee has a **disability**.
- A **casual worker** has been working a regular pattern of hours and/or weeks without a break and therefore may have accrued employment rights.

This will enable you to be clear about:

- whether an alternative approach is needed;
- the exact nature of redundancy and/or pension benefits potentially due to the employee if they are selected for redundancy.

## 6. Understanding employment rights in a restructure or reduction process

### Employment rights

Employees have employment protection rights from the outset of their employment. Further rights accrue as their employment continues. This includes employment which continues through a succession of short-term contracts.

### Definition of 'employee'

Employees are:

- workers covered by a 'mutuality of obligation', i.e. there is an obligation on the employer to provide work and an obligation on the individual to accept that work;
- those on permanent, fixed term and temporary contracts.

### Legal definition of 'redundancy'

The Employment Rights Act 1996 (s.139) defines in what situation an employee's dismissal may be on the grounds of redundancy:



- “(a) The fact that his employer has ceased or intends to cease —
- (i) to carry on the business for the purposes of which the employee was employed by him, or
  - (ii) to carry on that business in the place where the employee was so employed, or
- (b) the fact that the requirements of that business—
- (i) for employees to carry out work of a particular kind, or
  - (ii) for employees to carry out work of a particular kind in the place where the employee was employed by the employer have ceased or diminished or are expected to cease or diminish”.

This means that in presenting a case for dismissal, you will be required to demonstrate that this definition has been met. In the majority of school staffing reduction and restructure scenarios, it will be a need “for employees to carry out work of a particular kind” that has diminished, for example through a reduction in pupil numbers, or a reduction in finances, or due to a reorganisation of work.

Care also needs to be taken to understand the grounds on which employment is ending. Where a post is due to come to an end due to diminished need, the definition of redundancy is likely to be met. Where a fixed term or temporary contract is in place to cover the absence of a substantive postholder (for example sickness absence, maternity leave, secondment) there is no overall diminished need and therefore the definition of redundancy is not met. In such cases the separate policy for Cessation of Fixed Term and Temporary Contracts should be used. This policy and guidance should be used for ending fixed term and temporary contracts on the grounds of redundancy. If you are in any doubt about which policy applies, contact Education Personnel Services for further advice.

In circumstances where a suitable alternative role is available, an employee who refuses to accept the post will continue to be considered as ‘redundant’ but they are likely to jeopardise their right to a redundancy payment.

## **Protection from discrimination**

When ending employment on the grounds of redundancy it must be clearly demonstrated that redundancy is the genuine reason for bringing employment to an end (i.e. meeting the legal definition above). This will minimise the risk of a discrimination claim from an employee who perceives that their selection is for grounds other than genuine redundancy. When reducing or removing allowances (or reducing ranges), you should ensure that there is a clear rationale behind the change(s). An individual may lodge a discrimination claim irrespective of their length of service.

Claims for discrimination can occur on any of the grounds listed in the Equality Act 2010, so when defining selection criteria or proposed methods of implementing a new structure you must ensure that those criteria/methods are not biased or discriminatory. For example, a selection criterion which favours staff who take part in voluntary after-school activities would indirectly discriminate against women as a greater proportion of women have childcare responsibilities which restricts their ability to meet this criterion.

**Right to a written statement of reasons for dismissal**

All employees are entitled to a written statement of the reasons for their dismissal. The steps in this policy and guide will ensure that you meet this requirement.

**Right not to be unfairly dismissed**

You must ensure that the correct process is followed to ensure that the reason for ending employment is sound and genuine. Employees with two or more years of continuous service with their employer have statutory protection from unfair dismissal.

**Right to a redundancy payment and/or access to pension benefits**

Employees with two or more years' continuous service are entitled to be paid a redundancy payment if they are dismissed on the grounds of redundancy. This entitlement goes beyond service with their employer and takes into account all continuous local government service so it is important to be aware of an employee's full employment history (see guidance under Step 1, Identifying Group One and Group Two staff).

**For support staff belonging to the Local Government Pension Scheme (LGPS):** Support staff aged 55 or over on the date their employment ends must also be given access to their pension benefits, if they are dismissed on the grounds of redundancy.

**For teaching staff belonging to the Teachers Pension Scheme (TPS):** Teaching staff aged 55 or over may choose either to access their pension or to defer it, if they are dismissed on the grounds of redundancy.

**Right for a part-time employee not to be treated less favourably than a comparable full-time employee**

Part-time staff cannot be simply selected for redundancy over full-time staff in order to meet the particular level of reduction that is required or to fit the new structure. Selection must be based on the skills which the school needs to retain and these skills criteria will continue to be applied until a sufficient reduction has been achieved.

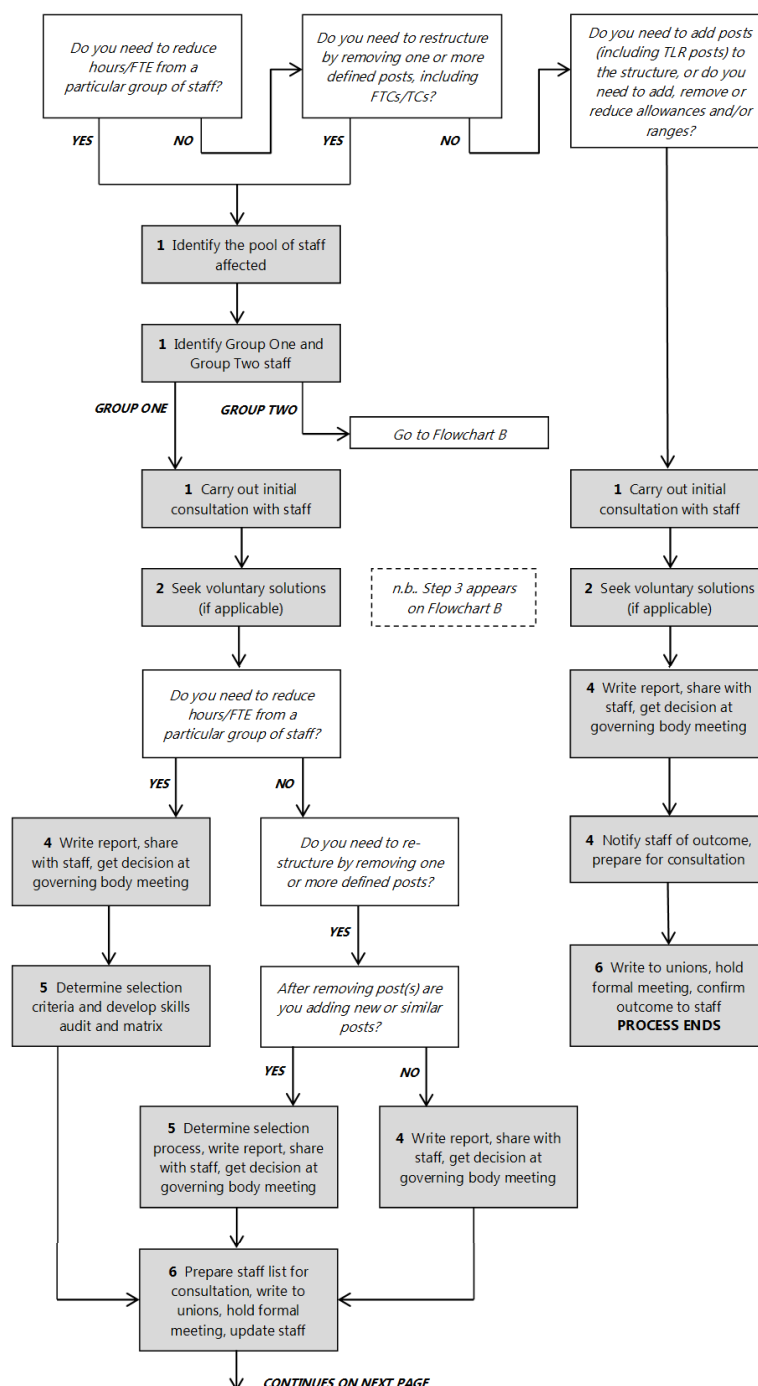
**Protection of acquired rights on the transfer of an undertaking**

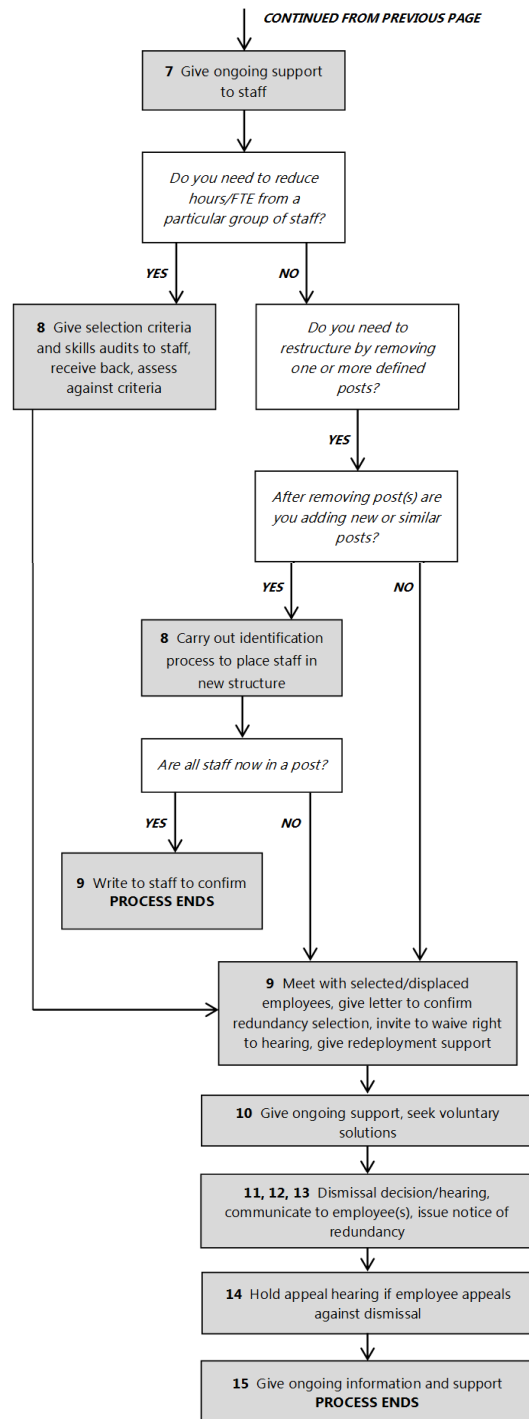
There may be circumstances when an employee has worked in a school where Hampshire County Council was previously the employer and the school has transferred to foundation, trust, voluntary aided or academy status. In such cases the employee will have their original Hampshire County Council continuous service start date and other relevant entitlements preserved.

<b>Right to representation</b>	Employees are entitled to be accompanied by a professional association or trade union representative or work colleague when they are invited to attend formal meetings under this policy. These meetings take place under Steps 9, 11 and 14 of the policy. In cases of removal or reduction of allowances, or reduction in range of a leadership group post or leading practitioner post, there are no formal meetings of this nature. The only formal part of the process will be confirmation of the outcome of the governing body meeting which will subsequently be confirmed in writing (see Step 4).
<b>Rights of employees on maternity leave</b>	In addition to the right not to be discriminated against on the grounds of their sex, employees on maternity leave have additional rights to be offered (not just invited to apply for) suitable alternative vacancies with their employer. They must be consulted and informed consistently with other members of staff and care must be taken to ensure they receive information at the same time as other colleagues.
<b>Rights of disabled employees</b>	In addition to the right not to be discriminated against on the grounds of their disability, disabled employees have additional rights in the search for suitable alternative vacancies with their employer. They must be consulted and informed consistently with other members of staff.
<b>Right of employees on fixed-term or temporary contracts not to be treated less favourably than a comparable permanent employee</b>	Employees on fixed-term or temporary contracts have the right to be treated in the same way as permanent members of staff. They are included along with permanent employees in this policy and guidance for dealing with restructures and redundancies, and when removing or reducing allowances or changing leadership ranges. Employees with <b>less than four years</b> of continuous service and whose contract is linked to the need to restructure will fall within the definition of Group Two staff (see Section 3 above).
<b>Right to be considered as a permanent employee after four or more years' continuous service</b>	Employees with four or more years of continuous service are likely to need to be treated as if they are permanent employees in line with the provisions of the Fixed-Term Employees Regulations 2002.
<b>Cases of removal or reduction of allowances, or reduction in range of a leadership group post or leading practitioner post</b>	While removal of an allowance or a change to a salary range may seem to meet the definition of redundancy (for example, if removing a TLR appears to fit "requirements ... for employees to carry out work of a particular kind ... have ceased or diminished ...") in fact there is no redundancy because the majority of the role of the postholder will be continuing. The remaining role, with salary protection/safeguarding, would therefore be deemed to be suitable alternative employment for the employee.

## 7. Overview flowcharts

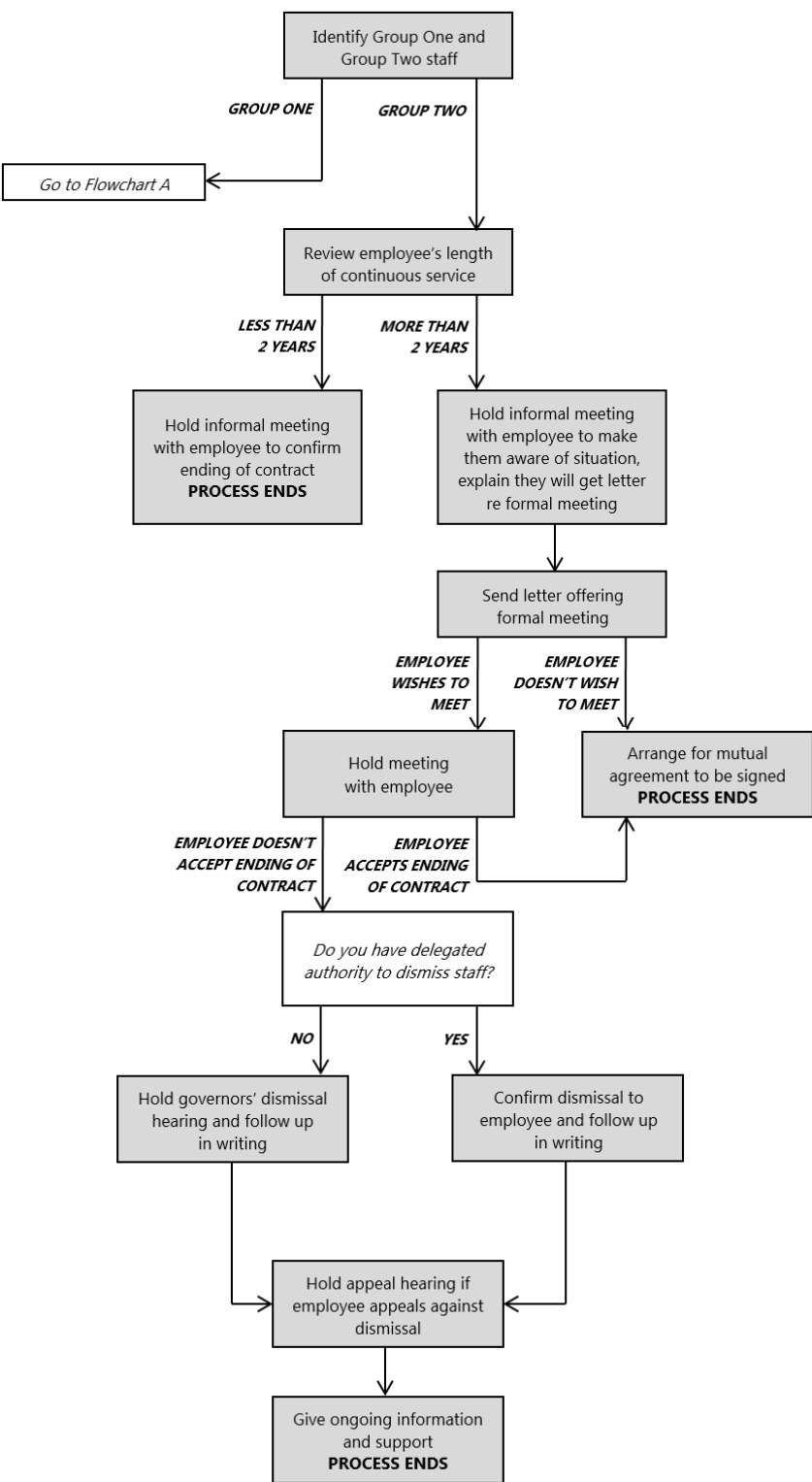
### Flowchart A – Redundancy, restructuring and removing/reducing allowances or leadership ranges





# 7. Overview flowcharts

Flowchart B – Ending fixed-term and/or temporary contracts on the grounds of redundancy



## 8. Timeline A: Staff reductions/restructuring process

This timeline should be read in conjunction with the full information given in the step by step guide in Section 9.

The dates shown assume a process which ends at the end of the school academic year on 31 August. If other end dates are used the timescales in the 'Date' column will need to be amended accordingly. It is essential that the approximate dates in the timeline are replaced with accurate dates which apply to the school's process.

Step	Activity	Date
1	Headteacher identifies pool of employees affected and any unusual situations, then meets with staff to inform them of the situation	At the earliest opportunity
2	Headteacher requests voluntary solutions from staff	At the earliest opportunity
3	Headteacher gives notice of ending of fixed term or temporary contracts	See Timeline B
4	Headteacher drafts the report to governors  Headteacher issues the report to governors  Full governing body meeting takes place  Headteacher informs staff of outcome of meeting	Drafted by early February – allow time for Education Personnel Services to review/advise  Report to be shared with staff and governors at least five working days before the meeting  By end of February  Within one working day of the meeting
5	Headteacher drafts selection criteria in preparation for the consultation meeting (where a skills audit or competitive interview process is being used)	Allow time for Education Personnel Services to review/advise
6	Education Personnel Services notify professional associations and/or trade unions of consultation meeting  Headteacher and Education Personnel Services hold formal consultation meeting  Headteacher notifies staff of the outcome of the consultation meeting and (if applicable) the need to move to a selection process	At least five working days' notice of the meeting must be given  From late January to late March (exact date to be booked with Education Personnel Services)  Within two working days after

		the consultation meeting
<b>7</b>	Headteacher continues to request voluntary solutions from staff	Ongoing throughout the process
<b>8</b>	<p>Headteacher provides information to staff including skills audit questionnaires, <u>or</u> headteacher carries out skills analysis, competitive interviews or slotting in process as applicable</p> <p>Headteacher receives completed questionnaires from staff, if applicable</p> <p>Headteacher completes skills matrix, if applicable, and shares with Education Personnel Services</p>	<p>Exact date depends on deadlines for Steps 9 - 13</p> <p>Return date to allow sufficient time to complete – usually two full weeks – also allow time for review and clarification if needed</p> <p>Exact date depends on deadlines for Steps 9 - 13</p>
<b>9</b>	<p>Headteacher notifies selection outcome to employees</p> <p>Headteacher confirms verbal notification in writing, offering employee option to waive their right to a hearing</p> <p>Headteacher receives completed waiver forms and responds accordingly in writing</p>	<p>Verbal notification immediately after completion of matrix</p> <p>Within one working day of the meeting</p> <p>Receive responses within two weeks of date of letter above</p>
<b>10</b>	Headteacher provides ongoing information and support to staff	Ongoing throughout the process
<b>11</b>	<p><u>Where employee has waived their rights:</u> Headteacher (or governors' committee where applicable) make dismissal decision without a hearing</p> <p><u>Where employee has not waived their rights:</u> Headteacher and Education Personnel Services prepare paperwork for a dismissal hearing</p> <p>Headteacher and Education Personnel Services invite employee to attend a dismissal hearing</p> <p>Governors' committee (or headteacher if appropriate) hold a dismissal hearing</p>	<p>As soon as practicable after waiver form received and no later than early May</p> <p>As soon as waiver form is received</p> <p>By early May – letter must be sent at least seven working days before hearing</p> <p>By mid May (avoid last week before half term break to allow time for communication after hearing – also hearing could be delayed by up to five working days if representative is unavailable)</p>
<b>12</b>	Education Personnel Services write to	Normally within five working



	employee to confirm outcome of dismissal hearing	days of the decision
<b>13</b>	<p><u>In schools where HCC is the employer:</u> Chair of governors writes to Education Personnel Services to request notice of dismissal to be issued to employee</p> <p><u>In schools where the governing body is the employer:</u> Chair of governors writes letter to employee giving notice of dismissal</p>	<p>Education Personnel Services to receive letter in time to write to employee giving notice of dismissal within 14 calendar days from the date of letter from the chair of governors</p> <p>By 31 May</p>
<b>14</b>	<p><u>If applicable:</u> Headteacher and governing body arrange appeal hearing</p>	Takes place by end of June
<b>15</b>	<p>Headteacher and Education Personnel Services provide ongoing support including redeployment support</p> <p>Headteacher carries out final review and meets with employee</p> <p>Headteacher notifies payroll of employee's dismissal</p> <p>Headteacher and/or Education Personnel Services arrange redundancy and pension payments with payroll (where applicable)</p>	<p>Ongoing until last day of employment</p> <p>Before end of summer term</p> <p>Before relevant August payroll deadlines</p> <p>Before relevant August payroll deadlines</p>

## 8. Timeline B: Ending fixed-term and temporary contracts

This timeline should be read in conjunction with the guidance in Section 9.

The dates shown assume a process which ends at the end of the school academic year on 31 August. If other end dates are used the timescales in the 'Date' column will need to be amended accordingly. It is essential that the approximate dates in the timeline are replaced with accurate dates which apply to the school's process.

Activity	Date
Headteacher notifies Education Personnel Services of those employees on a fixed-term or temporary contract whose employment is likely to be ending or impacted by the restructure	At the earliest opportunity
Headteacher informs affected staff and school union representatives	At the earliest opportunity
Headteacher identifies Group One and Group Two employees and meets informally with Group Two employees  Headteacher writes to those employees to confirm situation and give option of a mutually agreed cessation of employment  If the mutual agreement document is signed and returned, the process ends at this point.	Meeting to be held by mid-March  Letter to be sent by mid-March
<u>If the mutual agreement is not signed and headteacher has delegated authority to dismiss:</u>  Headteacher meets with employee and makes decision about dismissal/cessation of contract  In a restructuring, where there is the possibility of a position in the school once Group One staff have been selected into positions, headteacher explains this to employee(s)  Headteacher writes to employee to confirm decision	Meeting to be held by mid-March  Letter to be sent by mid-March
<u>If the mutual agreement is not signed and headteacher does not have delegated authority to dismiss:</u>  Headteacher meets with employee to explain need for governors' committee hearing and writes to confirm this, then follows Steps 11 to 15 in Timeline A	Meeting to be held and confirmed in writing by mid-May at the very latest
Headteacher notifies Education Personnel Services where the employee has more than two years'	At the earliest opportunity

continuous service or is aged over 55 at the proposed end date	
Education Personnel Services reviews redundancy and pension entitlements	At the earliest opportunity
Headteacher and Education Personnel Services provide ongoing support including redeployment support	Ongoing until last day of employment
Headteacher carries out final review and meets with employee	Before end of summer term
Headteacher notifies payroll of employee's dismissal	Before relevant August payroll deadlines
Headteacher and/or Education Personnel Services arrange redundancy and pension payments with payroll (where applicable)	Before relevant August payroll deadlines

## 9. Step by step guide to the formal process

(extracts from the policy are shown in shaded boxes)

### Preparation

Before beginning the steps below, the manager must confirm with the governing body that a budget or organisational issue within the school requires a review of staffing structures or levels. The manager must gain approval from the governing body to progress the matter.

When any restructure is proposed (whether or not there may be a need to reduce staff numbers) the manager must seek advice from Education Personnel Services at the earliest possible date.

The manager must clarify the contractual position of all staff as early as possible in the process to ensure all are treated appropriately (see **Definitions** for clarification of Group One and Group Two staff). For staff who fall within the definition for Group One, the manager must work through all relevant steps in the process until the required changes have been achieved. For Group Two staff, the manager must follow Steps 1 to 3.

### Identifying Group One and Group Two staff

Identifying which group the affected staff fall within is critical at this stage to ensure that staff on fixed-term and temporary contracts are treated appropriately – see **Definitions** of Group One and Group Two staff in Section 3 above.

For some schools, all affected staff will be permanent. Often there will be a mixture of different contracts, particularly where a budget issue has been forecast for some time, where a restructure has been planned, or where there are high numbers of children with special educational needs. Therefore there has been a requirement for some staff to be employed on temporary contracts.

The Hampshire County Council payroll system stores employment start dates, to enable length of continuous service to be calculated. However this data is not always accurate. It is strongly recommended that for each member of fixed-term or temporary staff in the pool affected their personnel file is reviewed (including the application form) to ascertain the length of their continuous service. Continuous service is defined as service with the same employer, without a break (and school holidays are not counted as breaks). This is particularly important in schools where Hampshire County Council is the employer, because an employee may have had a succession of fixed-term or temporary contracts with Hampshire County Council. This could make them a Group One employee rather than Group Two.

Advice must be sought from Education Personnel Services where there is any doubt about which group an employee falls within.

<b>Step 1: Initial consultation with staff (in cases of restructure resulting in a change, reduction or removal of posts/hours)</b>	<p>The manager must meet with staff at the earliest opportunity to inform them of the issues which necessitate a review of the structure or reductions in staffing. This initial consultation must include:</p> <ul style="list-style-type: none"> <li>• the reason(s) behind the restructure and which groups of staff are likely to be affected;</li> <li>• the proposed timescales, including both the date of the governing body meeting at which a decision will be made and the proposed final implementation date;</li> <li>• where there is a planned reduction in staff, a request to staff to consider whether there are any voluntary solutions that would avoid the need for reductions (see Step 2);</li> <li>• confirmation of which manager will be the point of contact for any questions or concerns.</li> </ul>
<p>Also see alternative Step 1 below</p>	

### **Identifying the pool of staff**

Before informing staff of the potential reduction, the headteacher will need to have determined which staff are affected and therefore in a 'pool' for redundancy and/or reduction in hours. This will be based on the needs of the school but there must be a clear rationale.

For example:

- If the proposal is to remove all home school link worker posts from the school structure, the pool would normally be all staff in the home school link worker role.
- If a primary school needs to achieve a reduction of 20 hours of learning support assistant time, the pool would normally consist of all staff in a classroom support role (not just those on a learning support assistant role profile).
- If a school needs to reduce by 0.5 fte teaching time, the pool would consist of all teaching staff.

The identification of a pool of staff is not always straightforward. Consideration may need to be given to whether a wider group of staff should be included in the pool. Care also needs to be taken where the proposed reductions are less than one full time post, to ensure a fair process is carried out. Headteachers should seek advice from Education Personnel Services, particularly if an employee in the pool is on maternity leave, is due to go on maternity leave, is absent due to sickness or has a disability.

### **Informing staff**

In the case of a reduction or restructure which directly affects specific members of staff, for example a reduction of learning support assistants, or a restructure of administrative staff, then those staff should be met with first before consultation takes place with the wider staff group. This is to avoid the situation where an employee who is directly affected hears about the proposals in a whole staff meeting.

Staff who are absent, for whatever reason, must be included in the initial

consultation with staff. Careful attention should be given to those on maternity leave or long term sickness absence. Normally it would be appropriate to contact those staff by telephone to explain the situation as near to the time of the staff meeting as possible. This is to avoid the situation where an absent employee may hear about proposals from colleagues or in a written communication from the school.

Staff should be encouraged at this early stage to contact their trade union/ professional association for support and advice. They should also be reminded of the availability of Employee Support who can be contacted on 0800 030 5182 (freephone) or 0161 836 9498 (calls will be charged), or via <https://extra.hants.gov.uk/employee/policy-guidance/occupational-health/employee-support>

- Once directly affected staff have been informed, all staff need to be made aware of the situation, because:
- the school must consult with all staff when changing the structure;
  - as all reduction processes could result in redundancy, the headteacher needs to have explored alternative solutions and talking to staff about the plans may result in a solution which avoids a formal process (see Step 2).

**Timescales** Education Personnel Services will be able to advise you at an early stage on the process you will need to follow and in particular the feasibility of your proposed timescales. The timelines in Section 8 give an indication of key dates but Education Personnel Services can advise further, including whether or not to reserve a date in the calendar for union consultation.

<b>Step 1: Initial consultation with staff (in cases of removal or reduction of allowances, or reduction in range of a leadership group post or leading practitioner post, or increase in value of a TLR payment currently in the staffing structure, or</b>	<p>The manager must meet with only those staff who will be directly affected by the proposed changes. This initial consultation must include:</p> <ul style="list-style-type: none"><li>• information on the proposed change to the staffing structure and a brief rationale for change;</li><li>• the proposed timescales, including both the date of the governing body meeting at which a decision will be made and the proposed final implementation date;</li><li>• confirmation of which manager will be the point of contact for any questions or concerns.</li></ul>
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**introduction of  
a new TLR  
(including  
TLR3) or  
introduction of  
a new post )**

**Informing staff** You must meet with staff who will be directly affected by the proposed changes to carry out initial consultation, before referring the proposals to a governing body meeting for a decision.

This advice applies to restructures which involve changes to:

- teaching and learning responsibility allowances (TLRs);
- special educational needs allowances (SENs);
- additional allowances for headteachers (where those awarded were on a permanent basis and now need to be reduced or removed);
- the individual school range (ISR) of the headteacher;
- the range of a leading practitioner;
- the range of a deputy headteacher or assistant headteacher;
- adding posts to the school structure.

However changes to the allowances and payments listed below do not need to follow a prescribed process beyond individual employee consultation with those affected:

- fixed term recruitment and/or retention allowance;
- headteacher's residential special school allowance;
- expenses payments;
- initial teacher training (ITT) payments;
- continuing professional development payments;
- out of hours learning activity payments;
- re-designation of a role profile for a support staff employee where there is an increase in grade, although this is a change in staffing structure which must be agreed by governors (where there is a decrease in grade this constitutes a restructure and the full procedure should be followed).

Staff should be informed about arrangements for communication during the process which will follow. This should include confirmation about which manager in the school will be the point of contact for any questions or concerns; this needs to be a manager who is readily accessible and who has enough knowledge of the process to provide meaningful support and information. Consideration should be given to setting up regular 'drop-in' or 'surgery' sessions when affected staff can meet with the appropriate manager – it will be reassuring for staff to know there is a set time when they can obtain

this support.

Staff should be given a copy of the policy and a timeline for the proposed process, with specific dates added so far as this is possible at this stage.

Staff should be encouraged at this early stage to contact their trade union/ professional association for support and advice. They should also be reminded of the availability of Employee Support who can be contacted on 0800 030 5182 (freephone) or 0161 836 9498 (calls will be charged), or via <http://extra.hants.gov.uk/employee/policy-guidance/occupational-health/employee-support>

**Step 2:  
Seeking  
voluntary  
solutions**

In a restructure that is likely to result in a reduction in staffing, the manager must at the earliest possible opportunity seek thoughts and ideas from staff on solutions which may avoid the need to make any redundancies. Such solutions are known as 'voluntary solutions'.

Staff may not volunteer to be made redundant and managers must not consider this as an option.

Where, after obtaining advice from their representative, an employee opts to explore employment opportunities elsewhere, the manager must contact headteachers of schools in the geographical area identified by the employee. The purpose is to urge those schools to give the employee priority consideration for suitable posts.

The manager must continue to consider voluntary solutions from staff throughout the process.

**Potential voluntary solutions**

The nature of potential voluntary solutions and their suitability for achieving the required outcome will depend on the circumstances of both the school and employees. In some cases there may be no obvious alternatives, but staff should still be asked to consider these and any possibilities explored before a final determination is made. Some later steps in this process may have to take place in parallel with exploration of voluntary solutions, particularly where there is limited time available.

Examples of voluntary solutions might include:

- continuation of the role through funding from other sources or joint funding with other schools;
- asking those in a wider group of staff if they would each consider a small reduction in hours or paid weeks to enable you to sustain their ongoing employment by restructuring;
- outsourcing, i.e. transferring staff to another employer where buying



back the service would be cheaper than directly employing those staff;

- income-raising activities.

Individual employees might wish to consider:

- retirement if they are at normal pensionable age;
- flexible or phased retirement if they are a member of the pension scheme;
- a collective reduction in hours or paid weeks;
- an individual reduction in hours or paid weeks (having considered the impact on their pension);
- alternative methods for delivering their role;
- job sharing;
- voluntarily seeking job opportunities elsewhere.

These lists are not exhaustive and these are potential solutions which you have discretion to accept or reject. If you need advice on a potential voluntary solution which has arisen, please contact Education Personnel Services, particularly if a proposed solution has a cost implication for the local authority (for example retirement).

It should also be noted that staff in maintained schools cannot volunteer to be made redundant and managers must not consider this as an option. This is because positive steps will be taken to pursue redeployment of an employee. If the employee is successfully redeployed, it avoids the need for redundancy to take effect. It also avoids the substantial cost to the employer associated with the payment of redundancy compensation and potentially pension benefits. Redundancy compensation will only be payable where an employee has been formally selected and dismissed for redundancy and it has not been possible to provide that employee with suitable alternative employment.

Where an employee chooses to explore employment opportunities elsewhere, they should seek advice from their trade union or professional association. If you have been made aware that an employee is taking this option, you should contact governing bodies in other local schools to urge them to give priority consideration to the employee for suitable posts. This principle should also be extended to staff in aided, foundation, trust and academy schools. Education Personnel Services can give further advice in this situation.

Any individual who voluntarily offers to be considered for redeployment should not be disadvantaged in any way when carrying out a selection for redundancy later in this process (Step 8).

In cases of removal or reduction of allowances, or reduction in range of a leadership group post or leading practitioner post, there are unlikely to be alternative solutions, but you should still engage with the staff affected by the process.

<b>Step 3: Notice of ending of fixed term/ temporary contracts</b>	Having sought voluntary solutions, if there is still a need to reduce staffing, the manager must meet with any staff in Group Two and follow the procedure for ending fixed term or temporary contracts (see Section 7 of this policy).
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**Guidance**                      Guidance on the process for ending fixed term contracts is covered separately in Section 10 of this document which sets out the meetings you will need to have and letters you need to send to Group Two employees. For Group One employees, you should continue to follow the steps below.

<b>Step 4: Approval at a full governing body meeting</b>	<p>The manager must write a report setting out the rationale for the changes and the process which will be followed, for approval by the full governing body. Copies of the report must be provided to governors and directly affected staff at least <b>seven working days</b> in advance of the full governing body meeting at which it is being presented, to enable staff representatives to prepare a response at the meeting. The report must also be made available for all affected staff to view at the same time.</p> <p>Staff representatives must be given the opportunity to attend the governing body meeting to contribute their views for consideration before a decision is made. They must then withdraw after their representations have been made.</p> <p>All staff who were initially consulted under Step 1 should be notified in writing of the outcome of the governing body’s decision.</p>
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**Contents of report (in cases of restructure resulting in a change, reduction or removal of posts/hours)**                      After initially consulting with staff and establishing that a reduction in hours/posts and/or a change to the staffing structure needs to be pursued, you must write a report for the full governing body meeting at which agreement and approval will be sought for the proposals. This report should include:

- the rationale for the need to restructure/reduce staff;
- an outline of both the current and proposed staffing structures;
- the categories of staff which may be affected and to what extent;
- the proposed timescale for achieving the reduction/changes;
- the method by which the reduction/changes will be achieved (see Step 5);
- the extent to which the revised staffing level can be achieved through either normal staff resignations or other voluntary solutions, having regard for the need to maintain an appropriate level and balance of teacher and/or support staff expertise in the school.

**Contents of report (in**                      The report to the full governing body should include:

**cases of removal or reduction of allowances, or reduction in range of a leadership group post or leading practitioner post)**

- the rationale for the need to remove or reduce the allowance(s);
- an outline of both the current and proposed staffing structures;
- the implementation date (which will normally be the start of the term which follows the date on which the governing body decision is made).

The rationale for change contained within the report should include the reasons you are proposing to remove or change allowances/ranges, which may for example be due to postholders leaving the school, or a need to rearrange responsibilities due to the school's budget situation. In a TLR restructure, you should show against the job description for the current TLR how the duties will be different in the new TLR role and why that warrants a different level of allowance, taking into account the minimum and maximum payment level of each TLR range.

The school is required to maintain an accurate staffing structure document (appendix to the school's pay policy) which should set out the value of any discretionary payments or allowances attached to each post in the school, as follows:

- numbers and levels of teaching posts, showing hours/fte;
- salary ranges of leadership and leading practitioner posts;
- numbers of TLRs awarded, their value and outline of responsibilities of each post;
- numbers of SEN allowances awarded and their value;
- breakdown of support staff posts showing role profile, hours/fte and salary grade.

The existing staffing structure and proposed structure with changes made clear must be presented to staff and governors as part of the consultation process and therefore included in the report.

**Contents of report (in cases of an increase in value of a TLR payment currently in the staffing structure, or introduction of a new TLR (including TLR3) or introduction of a new post)**

After initially consulting with staff and establishing that there should be an increase in the value of a TLR payment currently in the staffing structure, or the introduction of a new TLR, or the introduction of a new post, you should write a report for the full governing body meeting at which agreement and approval will be sought for the proposals. This report should include:

- the rationale for the need to increase the allowance(s), or introduce the new allowance or new post;
- an outline of both the current and proposed staffing structures;
- the implementation date (which will normally be the start of the term which follows the date on which the governing body decision is made);
- the selection process which will be carried out to select who should be appointed to the new post or who will be awarded a TLR (in the case of an increase in value of an existing TLR which is currently occupied, it is unlikely that a selection process will be needed – if this is your view then this should be stated in the report).

### Full governing body meeting

The report should be comprehensive and cover all the points above. This will be the evidence governors will need to determine whether there is a need to make changes to the staffing structure. The report will also subsequently be provided to unions during formal consultation (Step 6). Without this report and the information it contains, subsequent actions taken when following the policy will be weakened and open to challenge.

It should be noted that it is not appropriate for governors to agree selection criteria for identifying staff for redundancy so this should not be included in the report.

The report must be given to governors and directly affected staff at least **seven working days** in advance of the full governing body meeting. A copy must be made available for all other school staff to view at the same time, for example on the staff notice board or on staff intranet pages. A copy should also be sent to any member of staff on maternity leave or sickness absence, as well as those absent for any other reason (for example on secondment).

A template/example report, which includes further information on each of the bullet points above, is included in the restructures and reductions toolkit in the Manual of Personnel Practice.

### Attendance at the full governing body meeting

Those staff who are directly affected by the proposals may attend the full governing body meeting or send a representative. Staff may make representations to governors on the proposals. After making representations they must withdraw from the meeting to allow governors to deliberate and make a decision on the proposals.

You must communicate the governors' decision to all staff on the next working day. You can use model letter A, B or C (as applicable) to confirm the outcome to staff in writing. The model letters can be found in the restructures and reductions toolkit in the Manual of Personnel Practice.

### Step 5: Determine the selection process

If the governing body approves in principle the proposals to restructure, the manager must determine (if applicable) the selection criteria which will be used and prepare paperwork to be provided to staff prior to the formal consultation meeting with unions.

The selection process to be used depends on the type of proposals being made, as follows:

- **Reduction in hours (or full time equivalents) from a particular category of staff:** The manager must ask all staff in the particular category to complete a skills audit questionnaire which asks for evidence that the employee meets a defined set of criteria. The manager must set the criteria using the appropriate model selection criteria and must seek advice on the proposed criteria from Education Personnel Services before sharing them with staff and/or their

representatives.

- **Removal of one or more defined posts from the structure without any new posts being introduced:** The removal of the post from the structure identifies the postholder for potential redundancy.
- **Removal of one or more defined posts from the structure and the introduction of one or more similar or new posts:** The manager must consider what selection methods are appropriate (for example 'slotting in', competitive interview process) depending on the circumstances.
- **Introduction of a new TLR (including TLR3), or introduction of a new post:** The manager must consider what selection methods are appropriate, depending on the circumstances.
- **Increase in value of a TLR payment currently in the staffing structure:** No selection process is needed in this situation.

**Reduction in hours (or full time equivalents) from a particular category of staff**

In this situation, all employees who are in the particular category of staff (or 'pool') previously identified (Step 1) will need to be asked to complete a skills audit which asks for evidence that they meet a defined set of criteria. You will need to develop these criteria, with advice from Education Personnel Services, using the model criteria (primary, secondary and special) in the restructures and reductions toolkit in the Manual of Personnel Practice. This must be done before sharing the skills audit questionnaire with staff and/or their representatives.

The criteria need to be:

- based on the needs of the school;
- in line with the school's priorities as outlined in the school development plan;
- clear and unambiguous in their wording so staff can understand them;
- objective;
- relevant to the pool of employees at risk;
- written in such a way that it is possible to distinguish between staff to enable selection for redundancy.

Selection decisions will involve you assessing individual employees' responses against each of the criteria to determine whether each is met or not met. The criteria need to be explained to staff so that they are clear about what is required for each of the criteria to be met. Where 'recent experience of ...' is used, you will need to be clear about the definition of 'recent'; in most situations it is good practice to allow for a longer period to be specified, i.e. three years, to ensure that employees who have been absent on maternity leave etc are not at a disadvantage. If you are using a shorter period such as 'in the last term' or 'in the last academic year', you should have a clear rationale for this. It is important to ensure that this definition is justifiable and appropriate to the nature of the criterion. Experience being considered may

have been acquired at a previous school. Similar clarity and explanation will be needed for words such as 'responsibility', 'accountability' and 'contribution' within the criteria.

You will need to structure the criteria as follows, in line with the model criteria documents in the restructures and reductions toolkit in the Manual of Personnel Practice:

### **Stage 1 – Core requirements:**

Critical requirements that must be retained in order for the school to function as an organisation.

In a reduction situation in which the school needs to reduce teaching staff, core requirements would normally contain leadership and management responsibilities and might include other school-wide functional responsibilities.

Examples would be:

- headteacher;
- deputy headteacher;
- senco;
- key stage leaders;
- heads of department.

In a reduction situation in which the school needs to reduce support staff, again typically leadership and management posts would be identified as core requirements, for example bursar or senior administrative officer in an administration restructure, or cleaning manager or caretaker in a site support restructure.

### **Stage 2 – Specialist requirements:**

Specialist skills which need to be retained to deliver the curriculum, the needs of pupils, specific areas of work or to satisfy a legal requirement. Examples would be:

- recent experience of leading maths;
- recent experience of teaching a particular language;
- recent experience of working as a learning support assistant trained in speech and language, or with pupils with speech and language needs;

(where 'recent' is clearly defined).

### **Stage 3 – General requirements:**

General needs that the school has within the context of the age range of pupils or spectrum of curriculum needs. Examples would be:

- recent experience of working across KS1 and KS2;
- recent experience of teaching a particular language at KS3;
- day to day delivery of a phonics programme;

(where 'recent' is clearly defined).

These three stages of selection should usually be sufficient to enable you to identify the posts, skills and experience which the school needs to retain. Should this not be the case, you may use two further selection stages to select an individual for redundancy:

#### **Stage 4 – Formal procedures:**

An employee who has a live formal warning on their record for reasons of capability, conduct or ill health.

#### **Stage 5 – Length of service:**

The employee with the shortest length of continuous service.

You must seek advice from Education Personnel Services before sharing selection criteria with staff and/or trade unions and professional associations.

Once selection criteria have been determined, a skills audit questionnaire will need to be developed for affected staff to use. Model skills audit questionnaires (primary, secondary and special) are provided in the restructures and reductions toolkit in the Manual of Personnel Practice.

#### **Removal of one or more defined posts from the structure with no new posts introduced**

If a post is to be removed from the structure without being replaced by a new post, the existing postholder will be in a potential redundancy situation and no selection process is necessary. It is important that redeployment support is provided in line with Section 11 of this guide.

#### **Removal of one or more defined posts from the structure and introduction of one or more similar or new posts**

Where an existing post is removed and is to be replaced with a similar or new post, you will need to decide which methods are appropriate in order to determine who should be appointed to the similar or new post, depending on the circumstances and the extent and type of the restructure and the practicalities of each of the methods in the school's particular circumstances. Education Personnel Services will advise further on this.

The three main methods you should consider are:

**Slotting in** – Used where the current post and the new post are largely the same. The postholder will not need to be interviewed or selected and will be placed in the new structure.

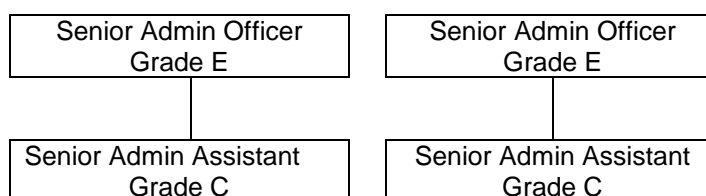
**Competitive interviews** – Likely to occur when there is a completely new post or where the number of posts of a particular kind are being reduced. Interview questions reflect pre-determined selection criteria from the job description or role profile. For example, in reducing the number of assistant headteachers from three posts to two posts, the existing assistant headteacher postholders should be ring-fenced and could be invited to compete in an interview situation.

**Skills audits** – An alternative to competitive interviews, where audit forms or preference forms are used to assess evidence against pre-determined criteria from the job description or role profile. Using the assistant headteacher example above, in this situation instead of being interviewed the postholders could be asked to complete a skills audit or preference form.

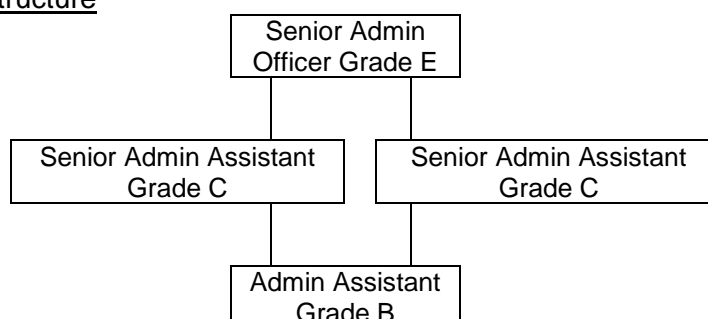
In a restructure process, it is normally the case that the most senior posts will be considered first and you must consider which approach to use with unsuccessful candidate at each point of the selection process.

### Example:

#### Current Structure



#### Proposed Structure



In this example, which assumes all staff are Group One employees, the manager must determine which approach to take and this should be included in the report to the governing body at Step 4 and then consulted on with professional associations and trade unions at Step 6. Using the principle of starting with the highest grade first, the two senior admin officers (grade E) will be ring-fenced. Regardless of which selection method is used, one of these two existing postholders will not have a grade E post in the new structure.

You should consider two options for the displaced postholder:

1. The employee is selected for potential redundancy. In this case, the two senior admin assistants (grade C) would be slotted into the two equivalent posts in the new structure and the displaced grade E postholder could be offered the grade B post in the new structure (with salary protection if they choose to accept).
2. The employee must compete with the two existing senior admin assistants (grade C) for the two equivalent posts in the new structure. In this situation a competitive interview or skills analysis process would take place and there would be no slotting in.



These are two very different processes with different implications for staff in the structure. After seeking advice from Education Personnel Services, you should demonstrate that both approaches have been considered and document your rationale for using one of them, including this information in the report to the governing body at Step 4 and consulting with professional associations and trade unions at Step 6.

Principles to follow:

- no appointment or selection decision will be made on a basis which would be in breach of the school equality policy;
- no employee will be promoted without an assessment process to judge their suitability for the new post (for the purposes of this procedure, an increase in value of an existing TLR in payment is not deemed a promotion);
- decisions about how employees will be placed in the new structure will normally be made in principle prior to consultation with the governing body (Step 4);
- posts will normally be filled in order from the highest graded post to the lowest;
- Group One employees will be considered first and if there are any remaining posts there will then be an opportunity for Group Two employees to be considered, using an appropriate process (slotting in, competitive interviews or skills audits/preference forms);
- in placing an employee in the new structure, regard should be given to the skills and experience of the employee and the needs of the post, with training always considered to support the employee in developing new skills;
- an employee has the right to turn down the offer of a position in the new structure, though this may jeopardise them receiving redundancy benefits if the declined position is deemed to be suitable alternative employment;
- you may apply a mix of approaches to achieve the new structure, however an individual employee would not normally be subject to more than one selection method;
- no post will be advertised externally until all employees in a potential redundancy situation have been considered for the role.

**Introduction  
of a new TLR  
(including  
TLR3), or  
introduction of  
a new post**

You must consider what selection methods are appropriate, depending on the circumstances. Advice is available from Education Personnel Services.

**Increase in value of a TLR payment currently in the staffing structure**

No selection process is needed in this situation.

**Step 6:  
Formal consultation with trade unions and professional associations**

If it becomes apparent at any stage of this process that there is potential for staff reductions arising from the process, formal consultations must take place with the county and local secretaries of the recognised teacher associations and/or officers of recognised trade unions. Consultation must also take place where there are changes to the school structure which do not result in redundancy, including:

- removal or reduction of one or more allowances or a reduction in the individual range for a leading practitioner or a member of the leadership group;
- an increase in the value of a TLR payment currently in the staffing structure;
- introduction of a new TLR;
- introduction of a new post.

The manager must send paperwork to the county secretaries of the recognised unions at least **five working days** in advance of the meeting. This paperwork must include a copy of the report provided to the full governing body in Step 4.

Consultation with recognised professional associations or trade union representatives must be meaningful, open and carried out with a view to reaching agreement.

Following the consultation meeting, the manager must produce a summary of key discussion points and must provide this to the employees who were initially consulted under Step 1.

The manager must send paperwork to the county secretaries of the recognised unions at least **five working days** in advance of the meeting. This paperwork must include a copy of the report provided to the full governing body in Step 4.

Consultation with recognised professional associations or trade union representatives must be meaningful, open and carried out with a view to reaching agreement.

Following the consultation meeting, the manager must produce a summary of key discussion points and must provide this to the employees who were initially consulted under Step 1.

**Consultation meeting**

A timetable of pre-arranged dates for consultation meetings is agreed annually and a school can book into one of these meetings via their Education

**arrangements  
for Hampshire  
maintained  
schools**

Personnel Services caseworker, who will identify a date from the timetable that is convenient for all parties. (Pre-arranged consultation meetings may be cancelled where there is a low number of slots booked on a particular date, to enable most effective use of time. In this situation alternative arrangements will be discussed with you.)

If you are working to a timeline with an end date other than August, there are likely to be fewer pre-arranged consultation dates available, in which case the consultation meeting will be organised as required through the Education Personnel Services caseworker.

**Consultation  
meeting  
arrangements  
for academy  
schools**

Academy schools have their own consultation arrangements and should be carried out through the school's own negotiating body which will normally include representatives from the recognised professional associations and unions (as the union recognition agreement transferred under TUPE when the school became an academy). The pre-arranged dates for maintained schools are therefore not available to academy schools so separate arrangements should be made for the consultation meeting. Representatives with Hampshire County Council facilities time are not able to attend consultation meetings and any other subsequent meetings during the school day, unless the academy school buys into Hampshire County Council's facilities agreement (more information is available in the Manual of Personnel Practice under 'Managing consultation, negotiation and facilities time in an academy').

**Meaningful  
consultation**

Consultation must be meaningful, open and undertaken with a view to reaching agreement. The consultation meeting is attended by professional association and/or trade union representatives, the headteacher (or other designated manager) and the adviser from Education Personnel Services.

Much of the information to be provided at the meeting will already exist in the governing body report produced under Step 4. Consultation on **reduction in hours from a particular category of staff, or removal of defined posts from the structure**, should include the following information:

- the rationale for the proposals;
- budget out-turn data, including details of any deficit or surplus;
- the current and proposed structure;
- the numbers and descriptions of employees who it is proposed will be dismissed on the grounds of redundancy, i.e. the pool of staff who may be required to go through a selection process (where appropriate);
- the total number of employees of any such description employed at the school;
- the proposed method of selecting the employees who may be dismissed, including any selection criteria which may be used;
- the proposed method of carrying out any dismissals, with due regard to the agreed policy, including the period over which dismissals are to take effect;

- ways of avoiding dismissals;
- ways of reducing the number of employees to be dismissed;
- ways of mitigating the consequences of dismissals;
- whether the school engages any agency workers and, if so, how many and in which roles.

In relation to the second and third bullet points, you can use the example table of staff information provided in the restructures and reductions toolkit in the Manual of Personnel Practice to identify what you need to share. In relation to the third point, you will need to provide a copy of the selection criteria and skills audit that will be issued to staff (which you will have produced under Step 5), as well as the matrix on which you will record the outcomes of the audit (an example matrix is provided in the restructures and reductions toolkit in the Manual of Personnel Practice).

Where consultation is taking place on **changes to allowances, including TLRs, or changes to leadership group or leading practitioner ranges**, much of the information to be provided will already exist in the governing body report produced under Step 4. This should include the following information:

- the rationale for the proposals, including any budgetary considerations;
- the current and proposed structure;
- the implementation date;
- the selection process which will be carried out (if applicable);
- ways of mitigating the consequences of the proposed changes.

All information indicated above must be provided to all recognised unions (not just those who have members in the school) at least **five working days** in advance of the consultation meeting. Failure to share this information may result in a delay to the process. If you are concerned about availability of information, please seek advice from Education Personnel Services.

You will need to prepare for this meeting in advance of the arranged date and to assist with this you can use the guidance document Role of Headteacher at a consultation meeting which is provided in the restructures and reductions toolkit in the Manual of Personnel Practice.

After the meeting has taken place, you will need to produce a summary of the key discussion points. This should include contact telephone numbers and/or email addresses of local union and professional association representatives (Education Personnel Services can provide you with these details). These notes should then be shared with staff who were previously consulted under Step 1 when writing to staff to confirm the next step of the process – model letter D, E or F (as applicable, available in the restructures and reductions toolkit in the Manual of Personnel Practice) can be used for this purpose. Where a selection process is needed, this letter can also be used to issue the selection criteria and skills audit questionnaire to staff. This should be done as

soon as possible after the consultation meeting to minimise anxiety for affected staff.

In some cases there may be no representatives available to attend the meeting, or they may opt not to exercise their right to attend if they have no members in the school; in this situation the professional association or union should send apologies and you will need to write to staff using model letter D, E or F (as applicable, available in the restructures and reductions toolkit in the Manual of Personnel Practice) to confirm what steps were taken to consult, what the next steps in the process will be and to provide contact details for the professional associations and unions. This letter can also be used to issue the selection criteria and skills audit questionnaire to staff.

Where consultation has taken place on changes to allowances or ranges, and there is therefore to be no selection process, you should write to the affected employee(s) to confirm their new allowance arrangements, salary safeguarding if applicable, and new job title, job description and start date if applicable. You can use model letter G in the restructures and reductions toolkit in the Manual of Personnel Practice for this purpose.

<b>Step 7: Ongoing information and support to staff</b>	<p>Any selection process must take place as soon as practically possible following formal consultation. Where there is a delay between formal consultation at Step 6 and any selection process, the manager must keep staff informed of the timescales that will be followed and the next key steps in the process.</p> <p>The manager must proactively assist staff to access job websites and allow reasonable time off to allow them to apply for and attend any interviews. The manager must regularly seek any suggestions for voluntary solutions which may resolve the need to make reductions and must keep a record that this discussion has taken place.</p> <p>In cases of removal or reduction of allowances, or reduction in range of a leadership group post or leading practitioner post, the manager must write to each affected member of staff, informing them of:</p> <ul style="list-style-type: none"><li>• the reason for the decision;</li><li>• the date on which the teacher’s allowance is to be withdrawn altogether or replaced with a new lower allowance, as appropriate (the ‘relevant date’);</li><li>• (if applicable) the date on which the fixed period expires, where the old allowance was awarded for a fixed period;</li><li>• (if applicable) the date on which the fixed term contract expires, where the old allowance was awarded to a teacher employed under a fixed term contract;</li><li>• the value of the safeguarded sum (unless the allowance was for a fixed period);</li><li>• the last date on which the safeguarding period could end (i.e. a</li></ul>
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	<p>maximum of three years from the relevant date);</p> <ul style="list-style-type: none"> <li>the value of the teacher's basic salary immediately before the relevant date and the value of the teacher's basic salary on the relevant date;</li> <li>the details of where a copy of the school's staffing structure and pay policy may be inspected.</li> </ul> <p>This will be the end of the procedure for restructures involving the removal or reduction of allowances, or reduction in range of a leadership group post or leading practitioner post.</p> <p>In the case of an increase in the value of an existing TLR currently in payment, where the manager has determined that no selection process is required, the headteacher should write to the employee to confirm their new post title, new job description and start date. This will be the end of the procedure in this type of restructure. However, where a selection process is required, the manager must complete that selection process following Step 8 of this policy.</p>
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Information and support

Any gap between formal consultation and a selection process taking place will inevitably create uncertainty for staff so it is important to ensure that communication with staff is maintained. This is a period of time when staff may take the opportunity to look for alternative employment options and if successful this may resolve the reduction situation without a need for formal selection. You can refer to the advice on redeployment in Section 11.

In the case of a restructure where one or more defined posts are being removed from the structure, and slotting in or competitive interviews are taking place, the sooner these happen the sooner an employee will be able to make an informed decision about their options.

Completion of the selection process will identify whether any staff are in a potential redundancy situation.

<div>Step 8: Selection/ identification process</div>	<p>The manager must follow the appropriate selection process as identified in Step 5. Where dismissal is a likely outcome, the manager must keep in mind the contractual notice periods for staff and in particular the dismissal notice requirements for teachers (which allow for termination to take effect on only three days in the year); failure to issue notice by the required deadline will result in continuing employment for the teacher for the following school term.</p> <p>For each of the selection scenarios identified in Step 5, the manager must at this stage take the appropriate action as follows:</p> <ul style="list-style-type: none"> <li><b>Reduction in hours (or full time equivalents) from a particular category of staff:</b> The manager must collate data from the completed skills audit questionnaires and ‘mark’ whether or not staff have met each of the criteria.</li> <li><b>Removal of one or more defined posts from the structure without any new posts being introduced:</b> In this situation there is no need for</li> </ul>
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an identification process.

- **Removal of one or more defined posts from the structure and the introduction of one or more similar or new posts:** The manager must inform individual employees of the outcomes of their selection process (for example, 'slotting in' or competitive interview) as soon as possible.
- **Introduction of a new TLR (including TLR3), or introduction of a new post:** Where a selection process has been necessary this must be completed as stated in the report to the governing body.
- **Increase in value of a TLR payment currently in the staffing structure:** No selection process is needed in this situation.

This will be the end of the process for scenarios in the final two bullet points above, subject to written confirmation of a change to salary where applicable.

**Reduction in hours (or full time equivalents) from a particular category of staff**

Having received completed skills audit questionnaires from affected staff, you must assess and 'mark' whether or not staff have met each of the criteria listed. You must transfer the marks to a matrix (using a localised version of the example matrix in the restructures and reductions toolkit in the Manual of Personnel Practice), which will then indicate which staff should be retained and which staff, by a process of elimination, are selected for potential redundancy. This process is set out in the model selection criteria documents in the restructures and reductions toolkit.

In order to minimise any likelihood of perceived or actual bias, you should carry out this task with a governor or another senior manager, though if a governor is involved this will preclude them from involvement on a dismissal or appeal committee for this process, should that be necessary. You should also seek advice on the selection process from Education Personnel Services, including a check of your analysis of the completed matrix before you communicate any outcomes to staff.

**Removal of one or more defined posts from the structure with no new posts introduced**

If a post is to be removed from the structure without being replaced by a new post, the existing postholder will be in a potential redundancy situation and no selection process is necessary. Redeployment support should be provided in line with Section 11 of this guide.

**Removal of one or more defined posts from the structure and introduction of one or more similar or new**

You will need to carry out the previously identified process of competitive interviews, skills analysis or slotting in, as agreed with governors and consulted on with professional associations and trade unions. It is important that agreed timescales are adhered to, particularly where teaching staff are affected and notice must be given by the relevant term's deadline.

Where you are using a competitive interview or a skills analysis process, you should provide the employee(s) with a copy of the job description and/or role

<b>posts</b>	<p>profile for the post in question, before they attend for interview or complete an analysis form. The criteria you will use to make your decision should be based on that job description/role profile.</p> <p>A record of your decision must be made and retained (on a matrix if a skills analysis is being carried out, or on an interview record form if carrying out competitive interviews). Education Personnel Services can provide advice before you finalise your decision.</p> <p>You must meet individually with employees to inform them of the outcome of the selection process as soon as possible. Employees who have been successful in this process should be informed of their new post title, job description/role profile, new hours and date of change. Employees who have been unsuccessful should be given feedback and informed of other vacancies within the school, as well as arrangements for redeployment support as outlined in Section 11.</p>
<b>Introduction of a new TLR (including TLR3), or introduction of a new post and increase in value of a TLR payment currently in the staffing structure</b>	<p>Where a selection process has been necessary this must be completed as stated in the report to the governing body.</p> <p>Employees who have been successful in this process should be informed of their new post title, job description/role profile, new hours and date of change.</p> <p>Employees who have been unsuccessful should be given feedback and informed of other vacancies within the school, as well as arrangements for redeployment support as outlined in Section 11 of this document.</p>

<b>Step 9: Notification of selection/ outcome to employees</b>	<p>For each of the remaining selection scenarios identified in Step 8, the manager must at this stage take the appropriate action as follows:</p> <ul style="list-style-type: none"> <li>• <b>Reduction in hours (or full time equivalents) from a particular category of staff:</b> The manager must meet on a one-to-one basis with the employee and explain how their skills audit has been scored. The manager must refer to a copy of the employee’s completed skills audit questionnaire and to a copy of an anonymised skills matrix to ensure that the employee concurs with the assessment of how they have been scored. If the employee raises significant concerns, the manager must adjourn the meeting and seek advice from Education Personnel Services. If no issues are raised then the manager must inform the employee of the next steps.</li> <li>• <b>Removal of one or more defined posts from the structure without any new posts being introduced:</b> The manager will already have informed the employee of the governors’ decision at Step 4 and of the outcome of formal consultation at Step 6. The manager must meet with the employee to inform them of the next steps.</li> <li>• <b>Removal of one or more defined posts from the structure and the</b></li> </ul>
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**introduction of one or more similar or new posts:** The manager will already have notified the employees of the outcome of any 'slotting in' or competitive interview process as these have taken place under Step 8. If there are any employees who have not been successfully appointed to any post in the new structure, then as soon as possible after completion of this process the manager must meet with the employee on a one-to-one basis to inform them of the next steps.

The manager must confirm to each employee who is without a post following the bullet points above that they:

- are in a potential redundancy situation;
- will have this confirmed in writing;
- will receive a letter from Education Personnel Services (where applicable) setting out support which is available;
- have a right to attend a formal hearing at which their selection for redundancy will be considered, but may also waive their right to attend a formal hearing;
- should contact their representative for support and advice.

**Reduction in hours (or full time equivalents) from a particular category of staff**

Having identified which staff are selected for potential redundancy, you need to meet with each employee in this situation on a one-to-one basis to:

- explain how you have scored their skills audit;
- explain why they met or did not meet each of the criteria;
- show them an anonymised matrix so they can see how they scored against others in the pool.

If the employee raises no objections, you will need to inform them that they:

- are in a potential redundancy situation;
- will have this confirmed in writing;
- will receive a letter from Education Personnel Services (where applicable) setting out support which is available;
- have a right to attend a formal hearing at which their selection for redundancy will be considered, but may also waive their right to attend a formal hearing;
- should contact their representative for support and advice.

If the employee does raise objections, and you cannot deal with these within the meeting, you should adjourn the meeting and seek advice from Education Personnel Services. It is not appropriate in the meeting to discuss other employees' responses on their skills audit questionnaires.

If a selected employee is on maternity leave, due to take maternity leave, absent due to sickness or has a disability, you should contact Education

Personnel Services for advice before holding a meeting with that employee, as different responsibilities in relation to redeployment may apply.

Following the meeting a letter should be sent to the employee using model letter H, available in the restructures and reductions toolkit in the Manual of Personnel Practice. This letter should enclose a waiver form which the employee may use to waive their right to attend a dismissal hearing. A template waiver form is included in the restructures and reductions toolkit.

When you receive completed waiver forms from affected employees, you should respond using one of three model letters as follows:

- Employee has waived their right to attend a dismissal hearing and you have powers of dismissal delegated to you – use model letter N in the restructures and reductions toolkit.
- Employee has waived their right to attend a dismissal hearing and you do not have powers of dismissal delegated to you – use model letter P in the restructures and reductions toolkit.
- Employee has not waived their right to attend a dismissal hearing – use model letter Q in the restructures and reductions toolkit.

**Removal of one or more defined posts from the structure without any new posts being introduced**

Having already informed the employee of the governors' decision at Step 4 and of the outcome of formal consultation at Step 6, you will need to meet with the employee to inform them that they:

- are in a potential redundancy situation;
- will have this confirmed in writing;
- will receive a letter from Education Personnel Services (where applicable) setting out support which is available;
- have a right to attend a formal hearing at which their selection for redundancy will be considered, but may also waive their right to attend a formal hearing;
- should contact their representative for support and advice.

If the employee is on maternity leave, due to take maternity leave, absent due to sickness or has a disability, you should contact Education Personnel Services for advice before holding a meeting with that employee, as different responsibilities in relation to redeployment may apply.

Following the meeting a letter should be sent to the employee using model letter J in the restructures and redundancy toolkit in the Manual of Personnel Practice. This letter should enclose a waiver form which the employee may use to waive their right to attend a dismissal hearing. A template waiver form is included in the restructures and redundancy toolkit.

When you receive completed waiver forms from affected employees, you should respond using one of three model letters as follows:

- Employee has waived their right to attend a dismissal hearing and you

have powers of dismissal delegated to you – use model letter N in the toolkit.

- Employee has waived their right to attend a dismissal hearing and you do not have powers of dismissal delegated to you – use model letter P in the toolkit.
- Employee has not waived their right to attend a dismissal hearing – use model letter Q in the toolkit.

**Removal of one or more defined posts from the structure and the introduction of one or more similar or new posts**

The manager will already have notified the employees of the outcome of any 'slotting in' or competitive interview process as these have taken place under Step 8.

If any **employees have not been successfully appointed** to a new post then you will need to meet with each employee on a one to one basis to inform them that they:

- are in a potential redundancy situation;
- will have this confirmed in writing;
- will receive a letter from Education Personnel Services (where applicable) setting out support which is available;
- have a right to attend a formal hearing at which their selection for redundancy will be considered, but may also waive their right to attend a formal hearing;
- should contact their representative for support and advice.

If the employee is on maternity leave, due to take maternity leave, absent due to sickness or has a disability, you should contact Education Personnel Services for advice before holding a meeting with that employee, as different responsibilities in relation to redeployment may apply.

Following the meeting a letter should be sent to the employee using model letter K in the restructures and redundancy toolkit. This letter should enclose a waiver form which the employee may use to waive their right to attend a dismissal hearing. A template waiver form is included in the toolkit.

When you receive completed waiver forms from affected employees, you should respond using one of three model letters as follows:

- Employee has waived their right to attend a dismissal hearing and you have powers of dismissal delegated to you – use model letter N in the toolkit.
- Employee has waived their right to attend a dismissal hearing and you do not have powers of dismissal delegated to you – use model letter P in the toolkit.
- Employee has not waived their right to attend a dismissal hearing – use model letter Q in the toolkit.

For **employees who have been successfully appointed** you should confirm in writing their appointment to a post in the new structure. Where there is no need for salary protection/safeguarding, you should use model letter L in the toolkit. Where salary protection/safeguarding applies, you should use model letter M in the toolkit. More information on salary protection/safeguarding is given in Section 13 of this guide.

<b>Step 10: Ongoing information and support to staff</b>	<p>The manager must continue to seek voluntary or other solutions to avoid the need to make redundancies. This exploration of alternatives must continue until the end of the notice period of any employee who is issued notice of redundancy in Step 13. Any viable voluntary solution will halt the redundancy process or rescind any termination notice already issued.</p> <p>The manager must nominate a suitable manager from within the school to provide redeployment support which will continue until the last day of employment, i.e. the end of the notice period issued in Step 13.</p>
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**Information  
and support,  
including  
redeployment**

Although the identification of employees who have been selected for redundancy has taken place, it is still important that you seek voluntary or other solutions to avoid the need to make redundancies, and this process needs to continue until the end of the notice periods of the employees affected.

At this stage you should nominate a suitable manager from within the school to provide redeployment support, which should be proactive and documented. It is likely that the redeployment support already provided and planned will be scrutinised at a dismissal hearing, should this take place, and failure to provide evidence of this could invite criticism. As soon as practically possible after the employee has been informed that they are in a potential redundancy situation, the manager should meet with them (accompanied by their representative or work colleague if they wish) to:

- explain that they on behalf of the employer will make every effort to encourage governing bodies to give priority consideration to them for any suitable posts at other schools (though redeployment is dependent on the decisions of those other schools following a recruitment process);
- discuss their particular circumstances, including career development and ease of travel to alternative workplaces;
- discuss whether there is any form of viable re-training which might assist the employee to gain alternative employment and ascertain whether this can be supported by the employer;
- discuss whether the employee has interest in non-school based and/or non-teaching alternative employment;
- ensure that the employee has access to relevant vacancy information;
- provide advice on the availability of other sources of support;
- confirm that the employee may visit other establishments (during work time and with essential travel expenses reimbursed) to discuss vacancies which may be suitable for them.

Detailed advice on redeployment support and entitlements is given below in Section 11 of this document. Advice and support on redeployment is also available from Education Personnel Services.

**Step 11:  
Dismissal  
decision/  
hearing**

The manager who has made the selection, accompanied by their HR adviser as required, must make a formal recommendation at a dismissal hearing, explaining how the selection process was carried out, before formal notice of redundancy can be issued. Until this point the employee is only ‘at risk’ of redundancy.

**Hearing arrangements**

The employee must be invited in writing to attend the hearing. The letter must give the employee **seven working days** notice of the hearing.

**Decision maker**

The decision maker at the hearing will either be the headteacher or a committee of governors (if the headteacher has been closely involved in earlier stages of the process, this will preclude them from a decision making role).

**Right of representation**

The employee has the right to be represented/ accompanied at a formal stage hearing or appeal hearing. This can be by a professional association/ trade union representative or a work colleague. The right to be accompanied is limited to one person only. It is the employee’s responsibility to:

- arrange their own representation;
- liaise with their representative or work colleague to agree the formal hearing or appeal hearing date and time;
- advise management of the representative or work colleague’s details.

There is no right to legal representation at any stage of this policy.

**Alternative date**

The school expects that the employee and their representative or work colleague will make all reasonable efforts to attend the first scheduled hearing date and time. If it is not possible, the employee may propose an alternative date and/ or time. This should be within **five working days** of the original hearing. The hearing will be rescheduled.

**Sharing of information**

The manager must send to the employee and their representative all relevant papers and supporting evidence at least **seven working days** in advance of the hearing. Management documents will be supplied with the invitation letter. The employee or their representative must submit all relevant papers and supporting evidence to arrive with the chair at least **three working days** before a hearing.

**Medical fitness to attend**

If the employee is unwell and not medically fit to attend the hearing, it may be deferred until they are able to attend. A hearing will not be deferred indefinitely because the employee is unable to attend.

### **Waiving right to attend**

The employee may waive the right to attend a hearing. However a decision must still be made about the dismissal of the employee by either the headteacher (where he or she has had powers of dismissal delegated to them) or a committee of governors (where the headteacher has been involved in the preceding steps of the process). The decision must be communicated to the employee in accordance with Step 12 below. Waiving rights to a dismissal hearing does not remove an employee's right to appeal against dismissal.

### **Local authority attendance**

A representative of the local authority is entitled to attend a dismissal hearing; where Education Personnel Services is the HR provider, an adviser who has not been previously involved will attend the hearing where appropriate to advise the decision maker(s) as well as to represent the local authority.

## **Hearing**

As the employee(s) identified for redundancy are, at this point, only 'at risk' of redundancy, you must make a formal recommendation to the decision-maker(s) at a dismissal hearing regarding the selection process which has been carried out, and selected staff must be given the opportunity to attend this hearing. Alternatively the employee may waive their right to attend the hearing (see further guidance below). Only when a formal decision has been made at the hearing can formal written notice of redundancy be issued to the affected employee(s).

## **Waiving right to attend**

An employee may waive their right to attend a hearing, in which case a dismissal hearing does not need to take place. However a formal decision about the employee's employment must still be made.

In this situation, if you as headteacher have been delegated power to dismiss staff, you should make the decision on the case and issue model letter N in the restructures and redundancy toolkit to the employee. If you do not have delegated power to dismiss staff, a governors' dismissal committee will need to make a decision on the case (see guidance below). In this situation model letter P in the toolkit should be sent to the employee and Education Personnel Services should be involved in making arrangements for the hearing.

Even where an employee waives their right to attend a hearing, a decision must still be communicated with them in accordance with Step 12. It is also important to note that waiving the right to attend a hearing does not remove the employee's right to appeal the decision that was made and attend an appeal hearing.

## **Preparation for dismissal hearing (where employee has**

If you receive a waiver form indicating that an employee does not wish to waive their rights to attend a hearing, you should use model letter Q in the restructures and redundancy toolkit to inform them of the next steps in respect of a hearing. You should also use model letter Q where an employee has not

not waived rights)

returned their waiver form, in which case a hearing will be needed.

Where powers of dismissal have been delegated to you as headteacher and where you have not been involved in the selection process, then you may hear the case for dismissal, which would be presented by the manager who carried out the selection.

Where powers of dismissal have not been delegated, or where you as headteacher have been involved in the selection process, the dismissal decision must be made by the dismissal committee of the governing body and you would present the case for dismissal.

You (or another manager if they have been involved up to this point) will need to prepare a bundle of paperwork for the hearing. Education Personnel Services will check the contents of the bundle before it is distributed. You can use the template bundle contents page in the restructures and redundancy toolkit as a checklist to make sure that all relevant documents are included and as the front sheet for the bundle itself.

The bundle must be sent to the employee, their representative and members of the dismissal committee (or headteacher if they are the appropriate decision-maker) at least **seven working days** in advance of the hearing.

The employee has the right to attend the dismissal hearing, accompanied by their representative or by a work colleague.

The Education Personnel Services caseworker will attend the dismissal hearing with you to provide you with support in presenting the case. Education Personnel Services will also provide an adviser who has not been previously involved with the case who can support and advise the dismissal committee (or headteacher if they are the appropriate decision-maker) on the procedure and the key points of law in respect of redundancy. Where Hampshire County Council is the employer of the staff in the school, this adviser will carry out the additional role of representing the local authority at the hearing, in accordance with the School Staffing (England) Regulations 2009.

The full procedure for the hearing is defined in the Procedure for a Headteacher or Governors' Committee Hearing in the Manual of Personnel Practice.

**Step 12:  
Communication  
of decision**

The decision regarding dismissal must be communicated in writing to the employee within **five working days** of the hearing/decision. If it is necessary to vary this timescale the employee must be notified at the conclusion of the hearing. This letter communicates the outcome but does not issue notice of redundancy. A copy of the outcome letter must be placed on the employee's personnel file.

**Decision letter  
to employee**

If it has been formally decided that an employee should be dismissed on the grounds of redundancy (regardless of whether the decision was taken by the

headteacher or governors’ dismissal committee), this must be communicated to the affected employee. Where a hearing has taken place the decision will normally be communicated face-to-face at the conclusion of the hearing.

The Education Personnel Services adviser advising the dismissal committee (or Headteacher if they are the appropriate decision-maker) will draft and send to the employee written confirmation of the outcome of the hearing within **five working days**. There is no template for this letter, which is written to reflect the specific circumstances of the hearing. This letter does not in itself issue notice of redundancy, which is a separate action covered in Step 13.

The employee will be given the right to appeal against the decision: this right will be explained at the conclusion of the hearing and confirmed in writing in the letter referred to above. If the employee wishes to appeal they should submit this in writing within **10 working days** of the date of the letter confirming the hearing outcome (see Step 14).

<b>Step 13: Issuing notice of redundancy</b>	<p>If the decision was to dismiss on the grounds of redundancy, notice of redundancy must be issued as follows:</p> <p><b>Where Hampshire County Council is the employer:</b> The manager or chair of governors must notify Education Personnel Services of the need to dismiss the employee, in accordance with the School Staffing (England) Regulations 2009. Education Personnel Services will arrange, on behalf of the Director of Children’s Services, for notice of termination of employment to be issued within <b>14 calendar days</b> from the date of the notification from the chair of governors.</p> <p><b>Where the governing body is the employer</b> (in a voluntary aided, foundation, trust or academy school): The chair of governors must issue notice of termination of employment within <b>two working days</b> of the hearing or as soon as possible after the hearing.</p> <p>In all cases involving dismissal of teachers, written notice must be issued before the relevant notice deadline (two months before dismissal in the autumn and spring terms, three months in the summer term).</p>
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<b>Notice letter to employee</b>	<p>If the decision of the hearing was to dismiss on the grounds of redundancy, notice of redundancy needs to be given to the employee, in accordance with the terms and conditions of their employment and with regard to who is the employer of the staff in the school.</p> <p><b>Where Hampshire County Council is the employer:</b> The chair of governors must notify Education Personnel Services of the need to dismiss the employee, using model letter R in the restructures and redundancy toolkit in the Manual of Personnel Practice. This letter must be received by Education Personnel Services as soon as possible after the hearing, to ensure that notice deadlines are met. Education Personnel Services will arrange, on behalf of the Director of Children’s Services, for</p>
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notice of termination of employment to be issued within **14 calendar days**.

**Where the governing body is the employer** (in a voluntary aided, foundation, trust or academy school):

The chair of governors must issue notice of termination of employment within **two working days** of the hearing or as soon as possible after the hearing, using model letter S in the restructures and redundancy toolkit.

**Step 14:  
Appeal hearing**

The employee has the right to appeal against the outcome of a formal hearing.

The employee must submit their appeal in writing to the clerk of the governing body. This must be within **10 working days** of the date of the letter confirming the outcome of the formal hearing. The letter must include the full reasons for the appeal.

The appeal hearing will be conducted by the governors' appeals committee.

**Hearing arrangements**

The employee must be invited to attend an appeal hearing. The employee must be given a minimum of **six working days** notice of the hearing.

**Right of representation**

The principles of right of representation will apply (see Step 11).

**Alternative date**

The principles of alternative date will apply (see Step 11).

**Sharing of information**

The principles of sharing of information will apply (see Step 11).

**Medical fitness to attend**

The principles of medical fitness to attend will apply (see Step 11).

**Outcome of the appeal hearing**

The chair of the committee must fully consider all evidence presented and decide on an outcome. The chair must advise the employee of the outcome at the appeal meeting unless otherwise agreed. The outcome must be confirmed in writing within **three working days** of the hearing. A copy of the outcome letter must be placed on the employee's personnel file.

Following an appeal of a formal hearing, there is no further right of internal appeal.

**Right of appeal**

The appeal letter should include the full reasons for the appeal. The grounds for appeal are (this is not an exhaustive list):

- outcome was unreasonable;
- emergence of new evidence or information which could have a material effect on the outcome;

- unfair/incorrect application/breach of the policy which could have a material effect on the outcome.

The appeal is not a repeat of the dismissal hearing. It seeks to address the specific issues raised by the employee in the appeal letter.

A complete re-hearing is only permitted in exceptional circumstances where the chair determines that the submitted grounds for appeal identify:

- there was a significant defect in the procedure;
- new evidence or information has come to light since the hearing which may have a significant impact on the decision.

<p><b>Step 15: Ongoing information and support for the employee</b></p>	<p>The manager (or redeployment manager) must keep in contact with the employee and their representative throughout the notice period and continue to explore all options to avoid redundancy up to the date of termination of employment.</p>
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**Information  
and support**

As outlined in Steps 7 and 10, contact must be maintained with the affected employees throughout their notice period so that all options to avoid redundancy can continue to be explored.

Advice and support on redeployment is available from Education Personnel Services. The information in Section 11 below sets out some key points.

**Final stages  
and  
notification**

If it becomes clear that the employee is not successful in obtaining redeployment, Education Personnel Services will begin the process of obtaining financial information on any redundancy payments or pension benefits due and later liaising with you to ensure that payroll are notified of leaver arrangements (if the school uses Hampshire County Council payroll). Where the school uses an alternative payroll provider, Education Personnel Services will advise you on calculating appropriate entitlements. More information on calculation of redundancy payments is given in Section 12.

You should also make the appropriate arrangements to mark the departure of the member(s) of staff. Normal arrangements should be made, for example a card and collection for an employee who is leaving.

Where a dismissal committee was convened, the fact that a hearing has taken place and summary information (for example date of the hearing and the outcome) should be reported to the full governing body and recorded in confidential governing body minutes.

A redundancy or restructuring process is difficult for all involved and you should be aware that employees who remain are also affected by the process, whether as a result of losing a colleague, adjustments to their work, or feelings of anger or frustration. The difficulty of going through this process can take

some time to ease. All affected employees should be reminded of the availability of Employee Support who can be contacted on 0800 030 5182 (freephone) or 0161 836 9498 (calls will be charged), or via <http://extra.hants.gov.uk/employee/policy-guidance/occupational-health/employee-support>

## 10. Ending fixed term and/or temporary contracts

### Introduction

This section sets out the meetings you will need to have and letters you need to send to Group Two employees. For Group One employees, you should continue to follow the steps in the main process in Section 9 above. Care should be taken to ensure that employees are correctly categorised as Group Two and that any continuous service (for example in other schools with the same employer) has been properly counted. Education Personnel Services can provide advice to ensure the staff grouping is correct.

### Group Two employees with more than two years' continuous service with employer at date contract will end

You must meet with each affected employee to confirm their understanding of their contractual position and to discuss the steps that will now need to be taken. The employee must be given the right to be accompanied by a professional association or trade union representative or work colleague of their choice. They should be given at least **seven working days'** notice of the meeting, using model letter T in the restructure and redundancy toolkit to arrange the meeting.

At the meeting you must:

- explain that their fixed term or temporary contract is due to cease and the date on which this is due to take place (for fixed term contracts this will normally be the end date specified when the contract was issued/extended);
- confirm that the contract is not expected to be renewed and explain the reasons for this (these reasons should have been referred to in the appointment letter and/or statement of particulars at the start of the employee's employment and should be linked to the restructure or need to make reductions in staffing – if this is not the case then advice should be sought from Education Personnel Services before proceeding);
- offer the employee the opportunity to respond and to comment on the situation;
- if appropriate, adjourn to consider any issues raised by the employee before you reach a decision or recommendation;
- discuss whether there are alternative employment options within the school and whether these are viable for the employee;
- discuss access to vacancy information and any other support that may be required by the employee in seeking alternative employment (see Section 11).

At this point you need to discuss with the employee the practical arrangements

for ending employment, which will depend on both whether or not they agree to the cessation of their contract and whether or not you have been delegated authority to dismiss staff.

If the employee fully accepts the ending of their contract and does not want to challenge this, you should pursue a mutually agreed cessation of employment with the employee (using model letter U and example mutual agreement document, both of which can be found in the restructure and redundancy toolkit). Depending on the situation in the school, you may also need to use model letter V in the toolkit (where the employee has the opportunity to be considered for new posts in the structure) or model letter W (where there are no available posts in the structure or the employee has been unsuccessful after consideration for a new post).

If the employee does not accept the ending of their contract and wants to challenge this, you should meet with them to discuss this, seek advice if needed, then:

- if you have been delegated the authority to dismiss staff you can determine that the contract should cease and confirm this in writing to the employee using model letter X in the restructure and redundancy toolkit;
- if you have not been delegated the authority to dismiss staff you will need to explain to the employee that the next step will be a governing body dismissal hearing and you should use model letter Y in the toolkit to confirm this, then follow the process in Section 9 above from Step 11 onwards (omitting the option to waive the right to a hearing).

If the employee has at least two years' service, they have the right to appeal to against their dismissal to the governing body (see Step 14).

**Group Two employees with less than two years' continuous service with employer at date contract will end**

These employees are not entitled to attend a formal meeting with you or with a governors' committee, nor do they have the right to appeal in relation to the ending of their employment. However, you should still meet with the employee at the earliest opportunity to discuss their position and confirm in writing that their contract will not be renewed, as well as the reasons for the non-renewal. These reasons should have been referred to in the appointment letter and/or statement of particulars at the start of the employee's employment and should be linked to the restructure or need to make reductions in staffing. If this is not the case then advice should be sought from Education Personnel Services before proceeding.

Where there is any likelihood of the employee pursuing a discrimination claim, they do not require a qualifying length of service to do so, so you should be mindful of any risk in this area. In this situation you should seek advice from Education Personnel Services.

**Consideration for other posts in structure**

If applicable, you should discuss with Group Two staff the availability of any suitable vacancies which may be present in the school structure following a selection process for Group One staff. Group Two staff should be given the opportunity to apply for any suitable vacancies in the school.

**Redeployment support** All employees whose fixed term or temporary contracts are ceasing should be given redeployment support, following the guidance in Section 11 below.

## 11. Redeployment support

**Redeployment status** Once an employee has been selected for redundancy they are entitled to receive support from the school in finding alternative employment. This period is likely to be a difficult time for the employee who will still be required to continue in their role at the school, while feeling anxious and concerned about their future. The support that you can provide to them will be essential in ensuring they have the best opportunity to find alternative work and cope with the situation they find themselves in.

Redeployee status normally begins from the date an employee is selected for redundancy and continues until the end of their employment. It should be noted that, to avoid a claim for discrimination, an employee on a fixed-term contract who is selected for redundancy must be treated in the same way as a permanent member of staff for the purposes of redeployment. Employees who are on maternity leave when made redundant, or who have a disability, have a separate legal entitlement to be offered any suitable alternative work.

Where Hampshire County Council is the employer, redeployees should also be directed to vacancies in departments.

**Support from Education Personnel Services** Along with support from the school, Education Personnel Services can provide redeployment support to staff affected by redundancy (where Education Personnel Services is the school's HR provider), as follows:

- an allocated redeployment support adviser will contact the redeployee to explain the support which is available and send them a booklet to assist with job search;
- the redeployment support adviser will obtain financial information on any redundancy payments or pension benefits due; these estimates are not normally provided until after the dismissal decision has been made (Step 11) or three months prior to the end date of employment;
- if a redeployee applies for a vacancy at another school, and notifies their redeployment support adviser of this, Education Personnel Services will contact that school to explain the employee's circumstances and to see whether there is any prospect of appointment, though it should be noted that the recruiting school is not obliged to guarantee an interview nor to offer employment;
- where Hampshire County Council is the employer, Education Personnel Services will ask the redeployee to complete a candidate profile, enabling them to register for Hampshire County Council vacancies which arise.

**Support from** Schools can support redeployees in a number of ways and it is suggested that

**the school**

you nominate a senior colleague to act as the main support for redeployee(s), which can include:

- Consideration of the redeployee for any roles within the school which become available. If you have a vacancy within the school you must first consider internal redeployees and assess whether they have the necessary skills and experience to carry out the role, or would do with an appropriate level of training, before you make a decision about advertising the role more widely. You may also offer a redeployee a trial period of up to 4 weeks in order for you and the redeployee to establish whether they are suitable for the role.
- Meeting with the redeployee regularly during the process and their notice period to see how they are coping with the situation and to see if further support can be provided.
- Where the school buys into the Employee Support Helpline, ensuring the redeployee has the relevant contact details (freephone 0800 030 5182 or 0161 836 9498 (calls will be charged)) or via <http://extra.hants.gov.uk/employee/policy-guidance/occupational-health/employee-support>
- Ensuring the redeployee has contact details for their redeployment support adviser in Education Personnel Services (02380 383500).
- Encouraging the redeployee to seek support from their professional association or trade union representative.
- Reminding the redeployee of the webpages and resources made available by Education Personnel Services.
- Supporting the redeployee in completing a candidate profile within Hampshire County Council's recruitment system, showing their skills and experience. This enables a recruiting manager to assess suitability for their vacancy.
- Helping the redeployee to complete application forms or write a CV.
- Ensuring the redeployee has access to job vacancy websites and allowing them time to look for vacancies.
- Allowing reasonable time out from work on full pay for the redeployee to look for employment outside of the school and/or to attend job interviews (with your prior agreement) and reimbursing any travel expenses incurred.
- Meeting with the redeployee after any interviews to find out how they got on and, if they had any difficulties, to support them (in conjunction with the redeployment support adviser if needed).
- Consideration of any re-training which may benefit the redeployee (for example additional computer skills) and whether funding for training costs can be provided.
- Checking the redeployee has contacted the redeployment support adviser in Education Personnel Services if they are applying for a post in

another Hampshire County Council school or department.

- Ensuring the redeployee has contacted Job Centre Plus to discuss any benefits they may be entitled to if they are unable to secure other employment.

**Offer of suitable alternative employment**

An employee will not be compelled to accept a post which is not a suitable alternative position, having regard to their qualifications, experience and personal circumstances. However if an offer is made and this is suitable alternative employment, the employee will be expected to accept the position. If an employee rejects an offer of suitable alternative employment, this may jeopardise their entitlement to redundancy benefits.

**Trial period**

Where an employee is successfully redeployed, they have a statutory right to a four week trial period to see if they are satisfied with the redeployment. After this period, if it is reasonably decided that the alternative job is not suitable, other employment options will be discussed and if no suitable job can be found, redundancy pay will be due.

**Travel expenses – support staff**

For support staff employed on EHCC2007 terms and conditions, travel expenses are payable to a member of staff who:

- transfers to another Hampshire County Council establishment as a redeployee; *and*
- incurs additional travel expenses; *and*
- is not, on transfer, appointed to a higher salary grade.

These additional travel expenses are paid on the following basis:

- for the period during which the additional travel is undertaken, up to a maximum of two years from the date of transfer;
- for travel by car, payment will be at the excess travel rate under the EHCC agreement;
- for travel by public transport, the excess cost will be paid at the prevailing public transport rate;
- payments will cease before the two year duration if the redeployee is promoted.

Where an employee is redeployed between Hampshire County Council schools/departments, the cost of travel expenses is paid by the receiving school/department.

Redeployees who were Hampshire County Council employees but who have been redeployed to a school where the governing body is the employer (foundation, trust, voluntary aided or academy schools), or vice versa, payment of travel expenses is at the discretion of the governing body.

**Travel expenses –**

There is no statutory entitlement for redeployed teachers to be paid travel expenses. However it is recommended that the arrangements for paying travel

**teachers** expenses to support staff (see above) are applied to teaching staff, to assist with their successful redeployment.

## 12. Calculating a redundancy payment

**Eligibility** In order to qualify for a redundancy payment, an employee must have two years’ continuous local government service. Service with employers listed on the Redundancy Modification Order counts towards this calculation, provided it is continuous (the Order is a list of organisations which are considered to be equivalent to a single employer for redundancy purposes). All maintained schools and academy schools are on the Order, as are local authorities.

Entitlement	Age groupings	Weeks redundancy pay per complete year of service
	Service accrued up to and including age 21	0.5
	Service accrued between age 22 and 40	1.0
	Service accrued from age 41 and above	1.5
	Maximum number of weeks of compulsory redundancy pay	30

Each completed year of continuous service up to a maximum of **20 years’ service** will count towards the calculation.

One week’s pay is based on gross contractual pay. For employees whose salary varies from week to week (for example shift workers), pay is averaged over a period of 12 weeks before the calculation date. Overtime payments are not included in the calculation unless the employer is contractually bound to pay overtime and the employee is contractually bound to work it.

Under the statutory redundancy pay scheme, a week’s pay is capped – the current value of the cap can be found online at [www.gov.uk](http://www.gov.uk). However, for **Hampshire County Council employees**, the pay cap is not applied, with redundancy benefits based on actual weekly pay. Should the employee’s weekly earnings be less than the statutory amount the employer’s pension contributions will be used as part of the calculation; this will not exceed the statutory week’s pay cap. **Academy schools** may have chosen to cap redundancy pay at the statutory level for new staff, though staff who transferred to the academy will be protected under TUPE.

HMRC do not currently tax redundancy payments of up to £30,000.

Employees must be given a statement detailing how their redundancy payment has been calculated. Education Personnel Services will calculate the benefits due and communicate this to the employee.



## 13. Salary protection/safeguarding

### Teachers

The statutory School Teachers' Pay and Conditions Document sets out the reasons for salary safeguarding and the basis on which this will be paid, where a determination of the governing body has the effect of reducing their salary.

The specific situations which will result in salary safeguarding are:

- a change of salary range (for example a reduction from a leadership range post to a post on a lower range);
- a lowering of the position of the individual range of a leadership range post, where that change results in a loss of salary on implementation;
- a reduction or removal of specific allowances or payments (for example TLR);
- a reduction or removal of a permanent additional allowance paid to a Headteacher.

Safeguarding in all the above situations will cease:

- three years from the date when safeguarding commenced;
- if the employee is on a fixed term or temporary contract, when that contract ceases;
- if the employee's salary increases (following a determination of the governing body made after the safeguarding commenced) and that increase equals or exceeds the safeguarded sum (except in the case of award of a temporary retention allowance);
- when the employee's employment at the school ceases (except in the case of a local authority-led reorganisation or closure, not covered by this policy and guide);
- where a teacher with a safeguarded sum of at least £500 unreasonably refuses to carry out duties commensurate\* with that level of remuneration.

\* It is a professional judgement as to what duties are 'commensurate' with the safeguarded sum. It is not normally appropriate for an employee to continue to deliver their 'old' role since that role is no longer required, hence the need for redundancy. It is good practice to draw up a list of duties and agree this with the employee and their representative in advance of them starting the new role. Advice should also be sought from Education Personnel Services in this situation.

If a leadership post or a teaching post with TLR attached becomes vacant while a teacher is in receipt of a safeguarded sum, it would be appropriate to consider that teacher for the role, prior to placing an internal or external advertisement, to potentially reduce or remove the payment of a safeguarded sum. There would be no automatic slotting in (though slotting in may be considered) but this is an opportunity to consider suitability for the role through a selection exercise.

**Support staff** Support staff employed on EHCC2007 terms and conditions are entitled to receive salary protection for up to two years where they are appointed to a lower grade post. Salary on appointment to a redeployed role will be the top of the salary grade for the position appointed to, with salary protection paid as an additional payment. During the two year protection period, salary will be frozen and the employee will not be entitled to any pay award or pay progression until their salary falls within the range of the grade for their new role. If by the end of the protection period their pay is still above the salary range maximum of their new post, it will reduce to the top of the salary range of the new post.

Where an employee is redeployed between Hampshire County Council schools/ departments, the cost of salary protection is paid by the receiving school/ department.

For redeployees who were Hampshire County Council employees but who have been redeployed to a school where the governing body is the employer (foundation, trust, voluntary aided or academy schools), or vice versa, payment of salary protection is at the discretion of the governing body.

A redeployee's annual leave entitlements will be protected for two years, after which the employee will move to the annual leave entitlement for the grade of the redeployed role.

## 14. Related documents

To help with the application of the policy and this how to guide it may be useful to read the following information in the Manual of Personnel Practice:

- Policy for cessation of fixed-term or temporary contracts (where there is no redundancy).
- Redeployment guidance and materials.
- Procedure for a Headteacher or governors' committee hearing.
- Teacher Professional Associations Facilities Agreement.

The following websites are also a useful source of pensions information:

- Teachers Pensions website: [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)
- Hampshire County Council Pension Services website in relation to the Local Government Pension Scheme: [www.hants.gov.uk/hampshire-services/pensions/local-government](http://www.hants.gov.uk/hampshire-services/pensions/local-government)

## 15. How to guide governance

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