



# STEPHEN HAWKING SCHOOL

## Schools Organisational Change Procedure

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## **1. General Scope of the Procedure**

- 1.1 This procedure should be applied whenever there is a proposal to make reductions in permanent teaching/support staff and fixed term staff with more than one years' service who are employed in schools under the control of Governing Bodies (even though the right to receive a redundancy payment is not acquired until after 2 years continuous service).
- 1.2 This is an agreed procedure, which also applies in the case of voluntary redundancies for the above staff.
- 1.3 Schools should note that this procedure cannot be implemented until approval for any potential redundancies has been given by the Local Authority (LA) School Restructuring Panel. Please refer to School Reorganisations - Governance Arrangements, attached to this procedure.

## **2. Aims of the Procedure**

- 2.1 School requirements for staff are liable to vary from time to time and periodically, governing bodies may need to consider changes in their staffing complement. The need for change may arise as a result of, for example but not exhaustively, budgetary constraints, curriculum requirements, demographic changes, school re-organisations etc.
- 2.2 Given the wide and varying nature of organisational reviews, this policy is intended to provide a framework for good practice in restructuring and re-organisation. It is intended that these arrangements ensure that re-organisations are carried out as swiftly as possible so as to ensure the continuity and quality of service delivery.
- 2.3 The School is committed to the principle of avoiding or minimising compulsory redundancies wherever feasible and ensuring that alternative methods such as natural wastage and redeployment are used to manage reductions during the course of re-organisations. Re-skilling and re-training of staff will also be considered in appropriate circumstances.
- 2.4 Where there is likely to be a redundancy situation, the school should liaise with their financial advisers at the earliest opportunity
- 2.5 This policy provides guidance on restructuring exercises which may cover a team or a department, involve more than one department or cover the whole school.
- 2.6 Options which governing bodies will need to consider include: -
  - reductions in the total number of staff;
  - adjustments to staffing levels in different management and/or curriculum areas;
  - adjustments to working and/or contract hours of staff;
  - a combination of these measures.

2.7 It is therefore essential that the best use is made of the resources available to schools in order to meet the needs of the pupils.

2.8 This procedure is intended:

- To take account of the school's statutory duty to provide for the educational needs of all pupils in line with the National Curriculum;
- To minimise the impact of situations involving re-organisations and or staff reductions;
- To ensure that organisational change takes place as effectively as possible and avoids unnecessary disruption;
- To ensure staff reductions are reached fairly and in accordance with employment law and statutory entitlements; and
- To ensure that consultation with staff and the trade unions is commenced at the earliest possible opportunity.

### **3. Equal Opportunities Considerations**

3.1 There are equalities implications involved when any employment procedure is applied. Application of the Organisational Change Procedure has particular implications for the multi-cultured workforce employed by the London Borough of Tower Hamlets.

3.2 Executive Head should ensure that they assess the situation across the group of employees likely to be affected before they embark upon any action relating to staff reductions.

3.3 In order to establish whether any single person or group of employees is being treated less favourably than others under this procedure it is important that all action taken is monitored. If details are not already available, employees may be asked to provide information (e.g. about their ethnic origin) to enable the Local Authority to review the impact of this procedure.

### **4. The Procedure (prior to consultation)**

4.1 The Executive Head completes the school development plan, budgetary information and Equality Impact Assessment with proposals for change including reduction in staffing costs and submits this to the school's governing body.

4.2 If the proposals are approved in principle, the governing body will agree a:

- Organisational Change Panel (usually consisting of the Executive Head and one governor)
- Appeals Panel (comprising 3 previously uninvolved governors).

4.3 At this point, the lead member of the Schools' Organisational Change Panel is required to submit the outline business case [template OBC/FBC], with indicative

financial implications in terms of savings and cost of redundancy/severance, to the LA School's Restructuring Panel (SRP) for initial discussion, challenge and consideration. A decision in principle by the Panel must be received before consultation with staff and trade unions can commence. Wherever possible, the Executive Head should informally tell the trade unions of the proposed restructure, before any written documentation is sent. This will avoid surprise and potentially could avoid industrial relations issues.

- 4.4 The LA will consider business cases for reorganisations when the school has to reduce or reorganise its staffing establishment:
- for budgetary reasons; or
  - to respond to organisational or curricular changes.
- 4.5 It is the current practice of the LA to meet the redundancy costs associated with the 'statutory' element of these costs providing that the school has obtained the approval of the LA's SRP, has acted reasonably and has followed the School's Organisational Change and Redundancy policies.
- 4.6 The School is expected to cover the full costs of the "enhanced" severance element of the redundancy payment.
- 4.7 If the costs are less than the salary savings generated by the reorganisation, the expectation would be that the school meets those costs in year (bearing in mind that this is a one-off cost and the school would be in a position to obtain full advantage of the savings in the following year).
- 4.8 If the above is not the case, the LA will introduce a facility to allow schools to obtain a free loan from the LA to pay for the one-off costs over an agreed period (of a maximum of three years in line with the deficit recovery plan arrangements). This would usually be the case when the reorganisation is taking place for budgetary reasons.
- 4.9 Where there is a successful application for funding to support redundancy costs the following conditions will apply.
- a. Any surplus balances above the level of balances submitted in the school's budget plans, at the beginning of the redundancy process and within the financial year in which the redundancies take place, will be clawed back from the schools to contribute towards the redundancy costs.
  - b. The school will not recruit to any new posts within 1 year of going through the redundancy process without local authority approval. Any schools recruiting to a new post within 1 year of the redundancy process and without local authority consent will be subject to the clawback of the redundancy funding.

c. Any member of staff who has left a school by reason of redundancy or early retirement and received a severance payment is required to have a gap before reemployment. The gap should be at least 1 year after the date of termination for staff who left due to compulsory redundancy or a gap of at least 2 years after the date of termination for staff who left due to voluntary redundancy before they can return, either as a directly employed member of staff, an agency worker or a consultant. This does not prevent them from working for a different School in Tower Hamlets or the local authority during this period. If a school seeks to recruit or engage an employee who received a severance payment within this period and without local authority consent will be subject to the clawback of the redundancy funding.

4.10 Termination costs in respect of closing or merging schools may be met centrally by the LA but this will be discretionary dependent on the consequence of LA intervention for schools causing concern.

4.11 Reorganisations are not a substitute for performance management and when the SRP considers that the reorganisation has been proposed for that reason, the LA will seek to recover the full costs it has incurred in relation to any statutory redundancy and/or severance payments.

4.12 In conjunction with governance arrangements, the LA will implement closer monitoring of redundancies against advertised vacancies. Where a school makes redundancies and the LA judges that subsequently the post has been filled within 24 months, the LA will seek to recover the full cost of the redundancy from the schools' delegated budget.

## **5. STAGE 1 - Proposals and Consultation**

### **5.1 Informal Consultation**

5.1.1 Trade Unions/Professional Associations and employees must be informed as early as possible that a re-organisation is being considered and informal consultation initiated.

5.1.2 Before staff are informed of any proposals, the School will write to senior representatives, at borough level, of the recognised Trade Unions and Professional Associations (See Chapter 7a of the Schools' HR Handbook), inviting them to attend a meeting to discuss the proposals. The invitation will include details of the proposals and a sample letter for situations involving potential staffing reductions can be obtained from your Octavo Partnership HR

Consultant if you purchase the Employee Relations package.

5.1.3 Following the meeting with Trade Unions and Professional Associations there will be a meeting with staff and their representatives to explain the proposals (this can be immediately after the first meeting with Trade Unions and Professional Associations)

## 5.2 Formal Consultation - Initial Proposals

5.2.1 Following the initial meeting with the representatives of the Trade Unions and Professional Associations, formal proposals should be put to the employees and trade unions, by writing to every member of staff that is affected, either directly or indirectly. This letter and the business case will provide details of the initial proposals and invite them to attend a group consultation meeting to discuss them.

The consultation should involve all affected staff and therefore it is important to make arrangements for consulting staff who are away from the workplace e.g. on maternity/paternity leave, long term sickness or secondments.

5.2.2 The proposals should clarify:

- the reasons for the reorganisation,
- the broad principles upon which the new structure or new work processes will be based,
- The number and description of employees at risk
- The total numbers at the establishment (current and proposed structure)
- Steps that will be taken as a means of trying to avoid compulsory redundancies, such as voluntary redundancies
- The proposed method for selecting for compulsory redundancies, in the event that this is necessary
- Confirmation of the procedure that will be used to make the proposed redundancies

5.2.3 In the case of a whole-school restructuring, if some parts of the structure remain unchanged this should be indicated at the earliest possible stage and this part of the structure excluded from the reorganisation.

Consideration will need to be given as to how the reorganisation will be phased, managed and implemented, whilst ensuring the appropriate input of all those

concerned and a consistency of outcomes.

- 5.2.4 The School's Organisational Change Panel will be responsible for consulting with staff and trade unions on methods for making reductions, and for selecting posts for redundancy following full consultation. In the event of a disagreement between members of the School's Organisational Change Panel the Executive Head will have the casting vote.
- 5.2.5 Provided that a decision in principle has been given by the SRP (as per paragraph 4.3), the School's Organisational Change Panel will consult with staff and trade unions on methods for avoiding compulsory redundancies, e.g. voluntary redundancy/early retirement, bumped redundancies, natural wastage, alternative internal redeployment, reductions in hours, agency staff. Where staff are redeployed into a post and the salary is lower they shall be entitled to salary protection in accordance with the school teachers pay and conditions document and for support staff any salary protection will be for 2 years.
- 5.2.6 This written document should be sent to the trade unions and relevant staff as soon as is reasonably practical and where possible at least 2 months before the first dismissal is envisaged to take place. Voluntary redundancies may still take place prior to this providing all parties agree.
- 5.2.7 Invitations may be sought at this point for volunteers for redundancy. The School's Organisational Change Panel will take into account curriculum requirements when deciding whether to accept an application for voluntary redundancy.
- 5.2.8 Where sufficient staffing reductions cannot be met through the above methods, the School's Organisational Change Panel will be responsible for identifying the numbers and types of posts for compulsory redundancy.
- 5.2.9 The School's Panel will continue to consult with staff and trade unions regarding the proposals and on the proposed selection criteria for making compulsory redundancies.
- 5.2.10 The School's Organisational Change Panel will then apply the agreed selection criteria and identify specific posts for redundancy. At this point, they will write to those staff whose posts have been identified and offer to meet with them in order that they may make individual representations.
- 5.2.11 Following this meeting the Panel, if applicable will write to the relevant individuals confirming their decision to make a determination to dismiss on the

grounds of redundancy (or in cases of non-teaching staff, to dismiss on the grounds of redundancy) and advise them of their right to appeal.

5.2.12 At this point, the Schools' Organisational Panel must submit the Final Business Case (template OBC/FBC) to the LA Schools Reorganisation Panel for final approval for the funding of the redundancy costs.

5.2.13 At this point suitable alternative employment will be sought for those individuals selected for redundancy. Where this search for alternative employment is unsuccessful, the determination to dismiss will proceed. The search for redeployment will be co-ordinated by the LA HR People Resources Team following the redeployment process.

5.3 The minimum statutory periods for consultation before the first redundancy takes effect are: -

Numbers of staff likely to be made redundant	Minimum Consultation period
20 and under 100	30 days
100 or more	45 days

5.4 However, Governing Bodies are urged to begin consultation as soon as it is identified that there exists the possibility of a redundancy situation.

## 6. **STAGE 2 – Assimilation Process**

6.1 The arrangements to deal with assimilation to each re-organisation will be tailored to meet the circumstances and will be proposed to and discussed with the Trade Unions/Professional Associations.

6.2. Where re-organisations are taking place jointly with partners, for example a federated school, where posts in both organisations are affected and potentially displaced by the changes, the assimilation process will need to be negotiated with the partner.

6.3 Where there is a need for a reduction in the number of staff, the Chair of Governors should firstly consider whether the required reductions can be made without the need for compulsory redundancies i.e. through: voluntary



redundancy, natural wastage, recruitment freezes, reductions in overtime, agreed changes to part-time working and cessation of temporary workers. In such circumstances, and before any agreements with individuals are reached, consideration must be given to all costs involved, including any on-going pension costs; and the skills base required for the school after the changes.

## **7. Defining The Ring Fence & Access To New Posts**

- 7.1 As a first step it will be necessary to identify the relevant pool of staff who are affected by any re-organisation. Only staff within the ring-fenced group will be eligible to be assimilated to posts in the new structure, i.e. if the employee's substantive post is being deleted as part of the re-organisation.
- 7.2 Once staff have been identified, the trade unions will be consulted on the ring fence, the assimilation process and the selection criteria. The staff concerned will also then need to be informed of the ring fencing, assimilation and selection process.
- 7.3 In determining the ring fence and for assimilation purposes, staff acting up or seconded will be treated on the basis of their **substantive** post. Temporary employees or permanent staff covering posts temporarily will normally be excluded from the ring fence.

## **8. Job Matching**

- 8.1 The consultation paper for a restructure should, where appropriate, contain a proposed assimilation list, which will be consulted on as part of the formal consultation process. This list will detail all staff affected by the restructure and what rights they have to any posts in the new structure. The possible rights they could have are

- Direct assimilation rights
- Competitive assimilation rights
- No assimilation rights

### **8.1.1 Direct assimilation**

This means that there is no substantial difference between the member of staff's current job description and the new job description in the new structure AND there are either more posts than staff or an equal number of posts and staff in the proposed structure. At the date at which the new structure comes

into force, the member of staff is assimilated into the new job description and duties.

#### 8.1.2 Competitive assimilation

This means that there is no substantial difference between the member of staff's current job description and the new job description in the new structure BUT there are more staff than posts in the new structure. For these posts, there will be a competitive selection process in line with normal school recruitment procedures to determine who is appointed. The selection process will be ring-fenced to those staff who have no substantial difference between their current job description and the new job description.

#### 8.1.3 Ring-fencing

The order in which interviews take place, i.e. assimilation interviews and ring-fence interviews, should be discussed and agreed as part of the consultation process based on the specific circumstances of the restructure.

8.1.4 To apply for a post in the ring-fence, staff will be asked to complete and submit an expression of interest form. Staff are not limited to only one application. The interview will be based on a normal recruitment process.

8.1.5 After the ring-fence, any remaining posts are opened up for redeployees Council-wide (including those staff within the affected structure that do not have a post).

8.1.6 Any posts remaining, following consideration of redeployees council-wide, will be subject to an internal only recruitment process in line with Council procedure, in the first instance.

## **9. Consequences of failure to consult**

- 9.1 The requirements of consultation will NOT be met if the Trade Unions and Professional Associations are merely presented with a complete package where the relevant decisions have already been taken.
- 9.2 Inadequate or insufficient consultation can lead to the Trade Unions and Professional Associations obtaining a protective award from an Employment Tribunal against the employer. This would require the employer (i.e. the Governing Body) to make a payment for a protected and specified period to staff who have been dismissed or are likely to be dismissed. This payment would be additional to any redundancy payment to which the staff would be entitled.
- 9.3 Employees who consider that they have been unfairly treated in the process may also pursue an unfair dismissal complaint through an Employment Tribunal. Such complaints can include questions relating to the statutory definition of redundancy, the criteria and/or methods for selection, inadequacy of consultation or attempts at redeployment.
- 9.4 Governing bodies are therefore urged to continue to consult with the local representatives of the recognised professional associations and trade unions.
- 9.5 Governing bodies are strongly recommended to seek advice and assistance from their HR service provider on any occasion that it appears that staffing reductions may have to be made.

## **10. Appeals**

- 10.1 A member of staff may appeal subsequently to a separate appeals committee of the governing body where (s)he remains dissatisfied with the decision affecting his/her post. These provisions are without prejudice to the right of employees to present a case to an Employment Tribunal. Upon receipt of appeals, the Appeals Panel will meet with the appellant and their representative to consider the grounds for appeal.
- 10.2 A representative of the Children's Services Department has the right to attend and give advice to committees of the governing body of Community Schools/ Voluntary Controlled Schools/Pupil Referral Units at the meetings referred to above.

- 10.3 The Appeals Panel will write to the individual concerned informing them of their decision, which will be final.
- 10.4 Where no appeal is made, or where the individual's appeal is unsuccessful, Community Schools must inform the Corporate Director (Children's Services) in writing of the determination to dismiss on grounds of redundancy, in order that a dismissal may be made.

## **11. Suggested Report Format to the SRP**

### 11.1 Executive Summary

This should include the reasons for the proposal, i.e. is the proposal due to financial constraints or restructuring. Also include action taken to mitigate redundancies

### 11.2 Restructuring Proposals

This section should give details of number and the posts that will be at risk. The current and proposed structures should also be included as appendices.

### 11.3 Financial Implications

The financial situation should be outlined in this section, including the savings made, if any, as a consequence of the proposed reorganisation, indicative costs of redundancy and budgetary information included as appendices.

### 11.4 Outline Timetable

Relevant dates should be shown in table format

### 11.5 Any Additional Notes

Any information that you feel may be useful for the SRP can be included in this section of the report

### 11.6 Appendices

- The Current Structure
- The Proposed Structure
- The Proposed Job Descriptions
- The Draft Job Matching List