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# Restructure & Redundancy (LLT)



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**NB For the purposes of this procedure, references to “Headteacher” include Executive Headteacher/Headteacher/Head of School.**

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## 1. INTRODUCTION

This procedure sets out the process which will be followed in the event that the current staffing structure within an academy / central support team or any other part of the Trust, no longer meets the needs of the Trust, or where a reorganisation of work will result in significant changes to job roles. This process will also apply in the event of the closure of an Academy, where the Academy is part of an amalgamation, or in the event any redundancy situation arises within the Trust.

### 1.1 Scope of Procedure

This procedure applies to all individuals employed directly by Lydiate Learning Trust (“the Trust”). It does not form part of any employee’s contract of employment and it may be reviewed and amended from time to time. A modified procedure will be followed in respect of fixed term temporary posts and those employees with less than one year’s service.

Where the procedure refers to Headteacher and Academy Governance Committee (AGC) for academy level changes, this will be the relevant Director and Trust Board for changes impacting the central support team.

Where the procedure refers to Headteacher, this will be relevant for Head of School.

This procedure does not cover circumstances, which may occasionally arise, where a “protected conversation” may take place between the Trust and an employee (who may be accompanied by their union representative or a work colleague) – which may be initiated by either party – about an agreed exit from our employment.

## 2. PRINCIPLES

**2.1** The staffing structure within each academy should be reviewed on an annual basis to ensure that it meets the needs of the school. From time to time, the Trust will have to implement changes to the staffing structure to ensure it best meets the needs of the curriculum and the school community. As a responsible employer, the Trust wishes to maintain the security of employment of its employees as far as is reasonably practicable. However, there are times when it may be necessary to make changes in an academy to respond to changes within the curriculum and the changing needs of pupils, a fall in pupil numbers, budgetary reasons, or other reasons leading to a reorganisation or closure of an academy.

2.1.1 To this end, the general principles embodied in this procedure are:

- where a restructure is being considered, clear terms of reference must be established, setting out why the restructure is taking place, what will change, who will be affected and when
- employees and trade union representatives should be consulted in a meaningful and timely manner on changes that may affect their role
- the interests of employees at the Academy should be safeguarded as far as is reasonably practicable

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- compulsory redundancies are kept to a minimum and avoided where possible by ensuring all other suitable alternatives are considered
- to support a search for alternative employment for all who have been identified as 'at risk'
- action taken has regard to the policies adopted by the Trust and relevant employment legislation including Employment Protection and the Equality Act
- to maintain confidentiality relating to individuals affected by the changes
- to communicate effectively and sensitively with and provide support to employees.

2.1.2 It is recognised that restructuring is potentially unsettling for employees and the aim should be to complete the process in the shortest practical time, whilst allowing for meaningful consultation that is genuine, fair and consistent.

2.1.3 Where employees are subject to the protections of TUPE, it should be noted that assimilation or selection to a new post would result in the loss of TUPE protection.

2.1.4 Employees have the right to be accompanied by a trade union representative or work colleague at all stages of the process.

## 3. PROCEDURE

### 3.1 Timescales

The timescales and detailed process for a restructure will vary depending on the size and complexity of the changes. A broad overview of the process can be found in *Appendix A*.

In order to allow for meaningful consultation and notice periods, consultation will be commenced as soon as possible, in advance of any potential change.

### 3.2 Proposing a staffing structure review

3.2.1 To this end, the general principles embodied in this procedure are: Where the need for change is required, e.g. restructure, this should be discussed with the CEO/Executive Headteacher and the Executive Team in the first instance.

3.2.2 Where the need for change is required, e.g. restructure, this should be discussed with the CEO/Executive Headteacher and the Executive Team in the first instance.

3.2.3 The Headteacher should draft a business case proposal document which must include the rationale for the change, the timescales anticipated, costs / savings, and any other relevant information.

3.2.4 Minimum consultation periods are in line with statutory requirements.

3.2.5 The business case/proposal document, once finalised, should be put forward for approval to the relevant Boards/Committee. This will include approval of the proposal at Trust and AGC level. Once approved, the Headteacher can then proceed with the proposal, with the support of HR Director.

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3.2.6 An AGC sub committee should be set up to oversee the remainder of the process and at this point if considered appropriate, an appeals committee may also be identified for use later on in the process.

## 3.3 The proposed staffing structure

The Headteacher should provide the Governing Body / Trust Board with the following information:

### 3.3.1 Reasons for Change

This may include but is not limited to:

- Flexibility according to the needs and priorities of the school
- Complexity of school structures requiring multi-disciplinary roles (support staff)
- To respond to statutory changes or nationally driven changes
- Restructure of the Senior Leadership Team (SLT) to refocus school priorities
- Curriculum change is wanted/needed
- A fall, or increase, in pupil numbers
- Budgetary reasons, with supporting budgetary projections and past budget information for comparison (including cost comparison of existing & proposed staffing structures, and an indication of where any savings will go)
- Other reasons leading to a reorganisation or closure of an academy, or significant changes to the central team.

NB. This is not an exhaustive list

### 3.3.2 Aims and objectives of the new structure

This should clarify:

- What is the aim of the restructure?
- What is it expected to achieve (e.g. increased flexibility/cover, redirection of Teaching and Learning, refocus of resources, budget savings)?

### 3.3.3 Justification of the need for a restructure

Show that consideration has been given to the implications of the restructure (including any potential compulsory redundancies) & proposals for dealing with future service requirements.

### 3.3.4 Alternatives considered to avoid potential redundancies

For example:

- Restrict recruitment in areas where suitable alternative jobs may exist

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- Restrict or reduce the services of sub-contractors or agency workers in areas where suitable alternative jobs could exist
- Natural wastage
- Ending short term contracts
- Explore the opportunities for re-training and redeployment to other jobs
- Take into account individuals' preferences where possible, such as requests to reduce hours of work, or a transfer to a different job, flexible working / job share
- Allowing secondments out of the academy, or career breaks
- Consider requests for voluntary redundancy / early retirement, before compulsory redundancies
- Consider alternative roles within the Trust

## 3.3.5 Staffing Implications

When a restructure is proposed, the full implications of the changes for all employees as a consequence of this decision should be considered. The business case proposal document should provide a detailed explanation as to which employees/pools of employees are affected and details of any alternatives available to them e.g. reduction in hours, alternative available posts.

## 3.3.6 Implementation/Selection details

- Details of the selection process to be used, including any assimilation process. Where known, this should also include key dates in the selection process e.g. anticipated interview dates
- The planned implementation date for the changes
- To whom responses should be given during the consultation, and how this should be done (usually in writing or by email to the Headteacher)

## 3.3.7 Additional Information

- The current staffing structure (the structure should be presented diagrammatically and include details such as TLR payments etc.)
- The proposed staffing structure
- Draft Job Descriptions/Person Specifications for newly created or alternative roles
- Any ring fences that may apply

## 3.4 Consultation

Once the Trust Board and AGC have approved the proposed staffing structure, in principle, the Headteacher should begin consultation with employees and trade union. At this stage, the proposal should be shared with employees and trade unions and feedback and suggestions requested.

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## 3.4.1 Timescales

There is a legal requirement on employers to consult on changes that affect employees in their workplace.

The consultation process must be meaningful and will involve all employees and trade unions being given an opportunity to understand the need for change. It is also an opportunity to express views on the proposed changes and to discuss alternative solutions, share concerns and explore options.

The timescale for the restructure process will depend upon the number of affected staff and will be followed by a contractual notice period.

Where 20 or more employees are involved and there is a possibility of redundancies, the s.188 formal notification must also be issued.

## 3.4.2 Starting the consultation process

Following governing body approval of the restructure proposal, consultation will commence with employees and trade unions at the earliest opportunity. During the consultation period, employees and trade unions have the opportunity to make comment, suggest changes to the structure, and ask questions regarding the proposals and to make representation regarding their preferred roles in the new structure.

A record should be kept by the Headteacher of all communications throughout the consultation period.

## 3.4.3 Trade Union consultation

Trade union involvement with consultation on changes that do not involve any redundancies will be invited at the discretion of the individual/s impacted.

Where possible trade union representatives will be briefed via a scheduled meeting. If communication is via email, trade union representatives may request a meeting with the Headteacher. This request should be made within 5 working days of the consultation opening.

## 3.4.4 Employee consultation

All affected employees should be provided with a copy of the business case proposal document.

Those directly affected will have the proposal and the implications explained to them at the start of the process. How the meeting operates is at the discretion of the Headteacher.

Depending on circumstances, the Headteacher may choose to brief colleagues who are directly affected by the proposals first (this is advisable if only a small number of people are directly impacted), and then hold a full staff meeting after this. Or they may decide that it is appropriate just to hold a full staff meeting.

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The purpose of these meetings is to give the Headteacher an opportunity to outline the proposed restructure and explain how it responds to the reasons why a change of structure is needed. It is important that all colleagues are aware of the potential changes and can contribute to the potential solution if appropriate.

Colleagues should also be reminded about the contact details for the Trust's Employee Assistance Programme.

## 3.4.5 Absent colleagues

For employees who are absent from work, due to ill health, maternity or any other type of leave, or who have not attended the consultation meeting for any other reason, the Headteacher should send copies of the restructure proposal to them detailing how they can comment on the proposals. This should normally be done within 3 working days of the consultation meeting. Communication and contact with these colleagues must be maintained throughout the process to ensure that they are kept informed and not disadvantaged.

## 3.4.6 Feedback and suggestions

At the meeting the Headteacher may request that employees (if appropriate) use the consultation period to consider their preferred role in the proposed structure and make informal or written representations to the Headteacher regarding this or request a one-to-one meeting to discuss their options and aspirations.

The Headteacher will explain how they wish to receive feedback and suggestions on the proposed structure during the consultation period. This will usually be in writing, with receipt of any comments also acknowledged in writing and given full consideration by the Headteacher. The Headteacher may, where necessary, wish to discuss suggestions with the employee.

## 3.4.7 One-to-one meetings

It is good practice to offer the opportunity for a one-to-one meeting with all colleagues impacted by a restructure.

Where there is a potential for individuals to be considered 'at risk' during the consultation period, the Headteacher must offer a one-to-one meeting with affected employees.

Where compulsory redundancies are probable, a HR Representative may also be present at any consultation meetings and one-to-one meetings, and employees will be entitled to be accompanied by their trade union representative, or a colleague, should they wish.

## 3.5 Voluntary redundancy

Where compulsory redundancies are proposed during consultation, employees should be offered the opportunity to express an interest in voluntary redundancy (which may include taking early retirement).

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## 3.5.1 Expressions of interest

By expressing an interest in voluntary redundancy, there is no obligation for either party to progress. Following such a request, redundancy estimates will be provided to the employee to inform their decision on progressing the application. If an employee makes the decision to progress their application, they should do so in writing to the Headteacher no later than the end of the consultation period.

Where an employee is considering this option, it is recommended that independent advice is sought from an appropriate advice body e.g. Citizens Advice Bureau.

## 3.5.2 Considering Applications

Applications will be considered by the AGC committee, who will take into consideration the academy's needs and priorities.

## 3.6 After consultation has closed

3.6.1 At the end of the consultation period the Headteacher will meet with the AGC committee to discuss any feedback and any changes as a result of the consultation. In light of any feedback, the AGC committee/Trust Board will be required to reconsider the structure prior to final approval of the proposed structure.

3.6.2 Following the approval of the final proposed structure, the Headteacher will arrange to update employees and trade unions on any changes that have been made to the original proposals, to distribute the final structure, confirm who is directly affected, and state the implementation date. This will include, where appropriate, clarity on the position regarding compulsory redundancies and/or details of how the selection process will operate.

3.6.3 Methods of communication to update employees and trade unions regarding the progress of the restructure implementation may include, but are not limited to, email, updates on the staff notice board, personalised letters, full staff meetings, group meetings and/or one to one meetings for employees' directly affected.

## 3.7 Implementation

### 3.7.1 Staffing the new structure

Following the consultation period, the implementation of the changes may commence.

Where a redundancy situation involves a pool of staff comprising a higher number of individuals than the number of posts available, a selection method must be used. The proposal document will have outlined the ways in which the staffing structure will be implemented and what selection methods will be used. The approach chosen will depend on the circumstances of the changes proposed.

Where there is only one employee in the affected group, selection for redundancy can be made without the need to apply a selection method.

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There are several methods available to the Headteacher when staffing the structure, these include, but are not limited to:

## 3.7.2 Assimilation into new or existing posts

Where there are posts in the structure that have not been affected, employees already holding those posts will be assimilated into the relevant roles in the new structure. This will occur when a comparison of job descriptions / person specifications shows that the posts are substantially similar or the same, and the same number of posts will exist. Under these circumstances no selection process will be required.

## 3.7.3 Ring fencing/expressions of interest

Ring fencing occurs when an employee's current role is similar/broadly comparable to a newly created role, but not the same and/or where there is a reduction in the number of roles. The process offers priority consideration to existing employees for new posts in the structure. This can often involve more than one employee being ring fenced for one post on the new structure.

Where a post is comparable to the employee's current post in job purpose, accountabilities, hours of work, work location, pay and conditions, etc., the employee can be ring fenced for selection. The Headteacher will create a proposed list of employees and posts in this situation.

Employees may be asked to express an interest in the post(s) they wish to be considered for. The Headteacher will ask the employee to submit a summary of their current skills and experience and how these could be applied to the new post. In some circumstances this can mean that one employee may show an interest in more than one post, depending on their experience and the variation of the new post(s) to their current post.

The Headteacher will consider all employees in the ring-fenced pool / who express an interest for a particular role against the requirements for the new post(s). Individual discussions may take place with employees at this point to talk about their preference/s and explore the employee's suitability to undertake the new role(s). In the interest of avoiding compulsory redundancies, the amount of training required to ensure the employee reaches the required standard will be considered. The Headteacher and governing body members overseeing the process will make appointment decisions based on the information gathered.

## 3.7.4 Competitive selection process

A competitive selection process may be used to ascertain which employee is the most suitable to fill a new role, taking into consideration the skills, knowledge and experience required.

Selection methods vary but examples include a formal interview with the Headteacher and/or other senior managers and/or governors and/or a work-based test/in tray exercise appropriate to the role. The selection method adopted will have been discussed with employees and trade unions during the consultation period.

## 3.7.5 Paper based selection criteria

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The Headteacher may set out a paper-based selection process. This is often used where the job content is remaining the same, but the number of posts is reducing. The proposed criteria and how they will be applied should be clearly set out in the consultation document. They must be objective, transparent, measurable, relevant, fair and non-discriminatory, and should be consistently applied.

Generally speaking, it is expected that the criteria will relate to the skills, qualifications or experience required for the new role(s) and with reference to the school development plan. (see *Appendix B*)

## 3.8 Staff absence during implementation

Employees who are absent during the implementation stages of the restructure will be treated fairly and equitably in relation to opportunities to express their interest and undergo the selection process etc. Headteacher is encouraged to seek HR advice in this respect.

## 3.9 Communicating the outcome to successful candidates

Successful candidates will receive a letter confirming their new post, and any salary safeguarding arrangements (where applicable), ideally no later than 5 working days following the assimilation or selection process. Likely timescales may be advised at interview.

## 3.10 Employees who are risk of redundancy

In some cases, there may be instances whereby individuals are identified as being at risk of redundancy due to non-appointment to available posts or application of the selection criteria.

The Headteacher will arrange to meet with employees who are not successful in securing a post in the new structure. Ideally, this will occur no later than 5 working days after the selection process/application of criteria is concluded.

A letter advising the employee that they have been provisionally placed at risk of redundancy will be provided to the employee at the meeting. The letter will provide the reasons for this and invite the employee to attend a meeting with the AGC subcommittee, to present their case in relation to this potential redundancy. This letter will also include details of how the redundancy payment (where applicable) will be calculated.

Where vacancies still remain on the new structure and where the employee has the appropriate skills, the Headteacher should consider any displaced employees for these posts. This may involve the employee being interviewed for the post.

Should other vacancies at the academy arise during the notice period the Headteacher should make the employee aware of these and retain written evidence of having done so.

## 3.11 Meeting

The employee will be invited to attend a meeting with the AGC subcommittee in order to present their case in relation their provisional selection for redundancy. The employee will be provided with at least 5 working days' notice of this meeting will and papers relevant to the case will also be provided at least 5 working days before the meeting. Attendance at this meeting is optional and if the employee chooses not to attend they may make their representation in writing.

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The employee has the right to be accompanied by a trade union representative or work colleague at this meeting. In the event a chosen representative is unable to attend the proposed date, an alternative date, within 5 working days of the original date should be proposed by the employee and/or representative.

The employee should submit any papers they wish to present to the panel and confirm the name of their representative at least 3 working days in advance of the meeting.

The Headteacher will attend the meeting to present their case in relation to the reasons the individual has been provisionally selected for redundancy. The employee, if in attendance, will be given the opportunity to also make representations. HR may attend to provide procedural advice.

The Chair of the Committee will write to the employee to inform them of the outcome and their right of appeal.

If the decision is to dismiss on the grounds of redundancy, notice will be issued to the individual, in accordance with the appropriate conditions of service and statutory requirements.

## 3.12 Right of Appeal

Employees who are selected for compulsory redundancy have the right of appeal against the decision. This should be made in writing to the Senior Clerk to Governors, within 5 working days of the notice being issued, outlining the grounds of appeal.

The appeal will be heard by an AGC appeals subcommittee, comprising of governors who have not previously been involved in the redundancy process.

The appeal will be held as soon as possible and normally no later than 15 working days after receipt of the appeal letter. The chair of the appeal hearing will notify the employee of the date and time of the hearing and their right to be accompanied by either a trade union representative or work colleague.

At the appeal hearing the employee will be able to explain further why they are appealing. This hearing will be limited to the grounds of appeal and does not constitute a full re-hearing of the original decision.

The Headteacher and/or a member of the governor committee overseeing the redundancy procedure will normally attend to explain their decision. HR may attend to provide procedural advice. Papers should be provided by those in attendance at least 7 working days before the appeal meeting.

Where appropriate the appeal hearing may be adjourned for further investigation.

The employee will be informed of the appeal decision in writing, normally within 5 working days of the appeal hearing or the reconvened appeal hearing where there has been an adjournment. The decision of the appeal hearing is final.

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## 3.13 Redeployment to other Trust academies

The Trust wishes to avoid compulsory redundancies and academies with colleagues at risk of redundancy will consider any requests for redeployment to other Trust academies made by colleagues at risk of compulsory redundancy.

All vacancies are advertised on the Trust's website and employees at risk of redundancy are encouraged to review this site regularly and to alert their Headteacher to any roles they wish to be considered for at the earliest opportunity.

## 3.14 Support available

Employees who are made compulsory redundant will be entitled to reasonable time off work with pay to attend interviews for other jobs and may be offered assistance from the school in their search for alternative employment.

It is recognised that this may be a difficult time for colleagues, and Headteacher should direct the employee to the Trust's Employee Assistance Programme and/or other relevant agencies.

## 4. SUITABLE ALTERNATIVE POSTS

Where a member of staff has been served with notice of compulsory redundancy and then accepts a suitable alternative post in the same academy or elsewhere in the Trust, in accepting the new post the employee does so on the terms and conditions for that post and will no longer be entitled to a redundancy payment.

### 4.1 Trial periods

For employees who are subject to compulsory redundancy if there is a mutually agreed suitable alternative available, there will be a four-week trial period.

The aim of the trial period is to allow both parties an opportunity to decide whether the employee is suitable for the role. It enables an assessment to be made on whether the employee has the required skills, with training, to do the new job. Appropriate support and training will be discussed and offered to assist the employee in being successful in the role within the four-week trial.

A trial period will apply where there is a difference in the skills required to carry out the new role and the employee's previous role in school.

The Headteacher will write to the employee detailing the terms and length of the trial and what will happen at the end of the trial if it is successful or unsuccessful.

### 4.2 Successful completion of the trial period

The Headteacher will write to the employee to confirm them in the post, and where appropriate a contract of employment will be sent to the employee.

### 4.3 Unsuccessful completion of the trial period

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In exceptional circumstances and by mutual agreement only, the trial period can be extended for up to eight weeks. Where this is agreed the Headteacher will write to the employee to confirm the extension and the new date for review.

Where an extension is not agreed and/or the trial is unsuccessful the Headteacher will write to the employee to confirm that they retain their entitlement to redundancy pay and the date their employment will come to an end on the grounds of redundancy, with the same right of appeal.

## 5. REDUNDANCY PAYMENTS

Employees with more than 2 years' continuous service may be eligible for redundancy payments. The calculation of redundancy payment is made in accordance with the Trust/Department Policy, which comprises statutory calculation, using weekly pay.

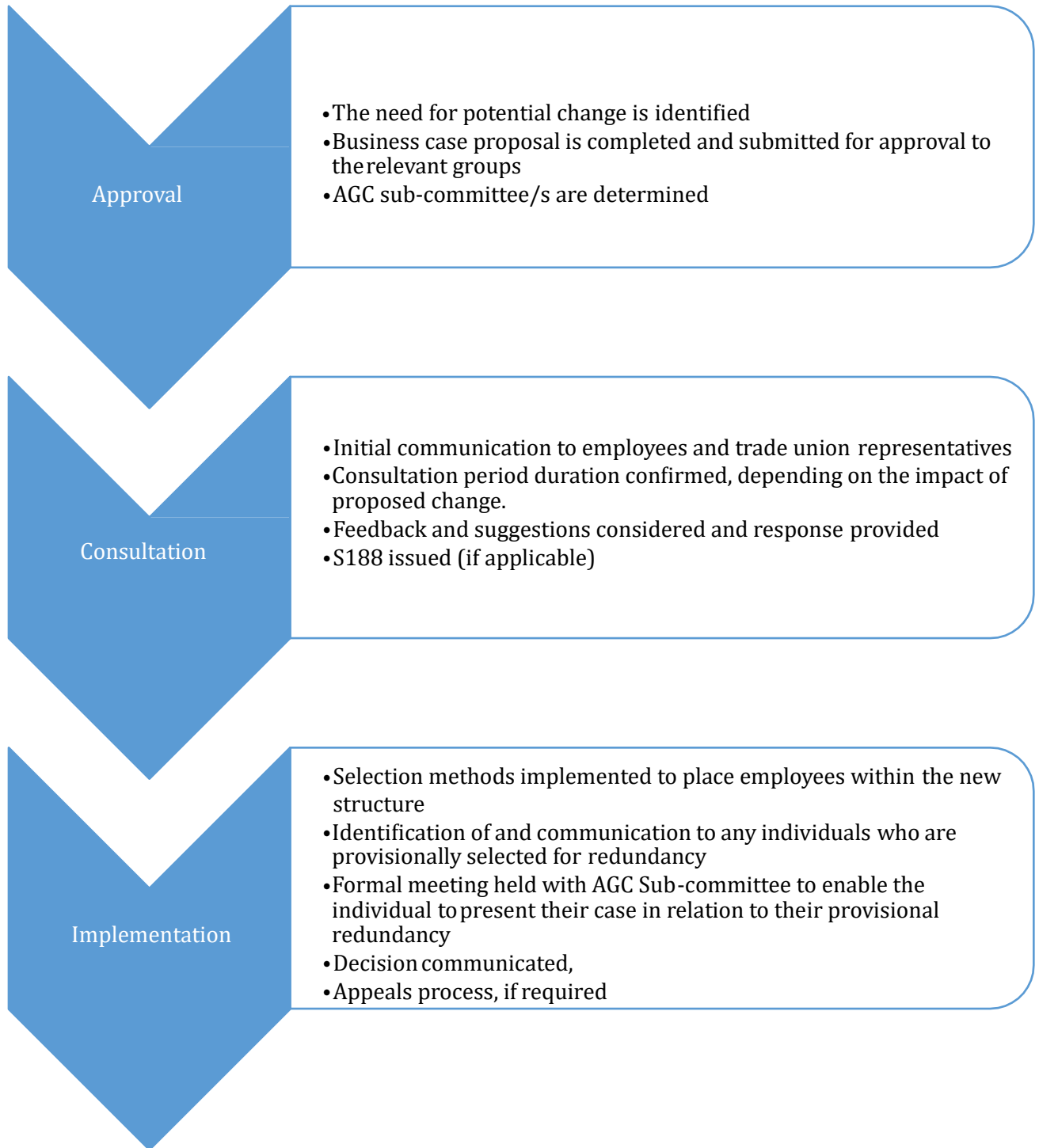
Where employees with more than one contract are made redundant from only one post, service for redundancy purposes will relate to the redundant post only.

Employees will not normally be entitled to a redundancy payment if they secure alternative employment, with an employer covered by the Local Government Modifications Order, to commence within 4 weeks of the date of redundancy. Where an offer of alternative employment is made, the start date of this employment should not be artificially delayed to facilitate the 4 week break. Where this does occur, employees will not normally be entitled to a redundancy payment.

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## APPENDIX A Process Overview



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## **APPENDIX B Redundancy Selection Criteria**

In the event a paper-based selection criteria is to be applied, the Headteacher will apply objective selection criteria. As each redundancy situation will be different, the detail of the selection criteria will need to be determined on a case-by-case basis and in all cases, employees and trade union representative will be consulted on this process. However, an example of a selection criteria that may be applied is as follows: -

Work performance:

- outstanding – consistently exceeds company standard 5
- exceeds objectives of the role 4
- meets all objectives of the role 3
- meets some objectives of the role 2
- fails to meet objectives of the role 1

Skills and competence:

- fully competent, multi-skilled, supports others on regular basis 5
- fully competent in current role 4
- competent in most aspects of current role, requires some supervision 3
- some competence in role, requires regular supervision and guidance 2
- cannot function without close support or supervision 1

Disciplinary record:

- no record of disciplinary action 5
- record of informal disciplinary action 4
- verbal warning current 3
- written warning current 2
- final written warning current 1

Attendance record:

- no recorded absence 5
- some absence but below average for selection pool (or workplace) 4
- attendance in line with workplace (or selection pool) average 3
- absence level above average for selection pool (or workplace) 2
- high and unacceptable level of absence 1

It's against discrimination law to select employees based on:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex

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## Restructure & Redundancy Policy (LLT)

- sexual orientation
- family related leave – for example parental, paternity or adoption leave
- their role as an employee or trade union representative
- membership of a trade union
- part-time or fixed-term contract
- working time regulations – for example if they've raised concerns about holiday entitlement or rest breaks
- concerns they've raised about not being paid the National Minimum Wage
- concerns they've raised about whistleblowing

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