

NORTHAMPTON
BOROUGH COUNCIL

DRAFT

RESTRUCTURE POLICY
SEPTEMBER 2008

1. Introduction

Northampton Borough Council values its employees and aims to manage all employment related matters in a fair, transparent and consistent manner. This Policy, which has been produced in consultation with the Trade Unions, sets out the processes and procedures we will follow when implementing organisational change. Management and the Trade Unions are committed to working together through all stages of reorganisation/restructure design and implementation.

2. Scope

This Policy applies to all employees of Northampton Borough Council. This Policy does not apply to positions that transfer to another employer as a result of organisational change (transfer of undertakings).

Notwithstanding the above there may be, exceptionally, occasions when Senior Management will wish to adopt a different approach to managing organisational restructures. Any proposals to deviate from this Restructure Policy will be discussed fully with the Trade Unions, with the aim of reaching an agreed approach.

NOTE: The Trade Unions are not in agreement with this paragraph.

3. Links to other Council Policies

This document should be read in conjunction with Northampton Borough Council's Early Retirement/Severance Scheme.

4. Approach

The Council is committed to providing continuous employment. However, there are times when it may be necessary to make changes in the organisation to improve performance, the services we provide, for efficiency reasons or to deliver new initiatives. When this happens, we will:

- Aim to minimise redundancies;
- Follow the agreed procedure for any redundancies that do occur so that they are handled fairly;
- Carry out meaningful and early consultation with staff and the Trade Unions;
- Seek alternative employment for all potentially redundant employees;
- Provide communication and support to our staff.
-

5. Planning Organisational Restructures

The Chief Executive/Directors have delegated responsibility for planning reorganisations/restructures within the Council/their own directorates and the decision to begin this process rests with the Chief Executive/Director. Approval to proceed with the reorganisation/restructure must be sought from the Council's Cabinet.

Management, supported by HR, Legal and Finance, are accountable for justifying planned organisational changes. This includes looking at the financial implications of any changes (including any potential redundancies) before beginning any formal consultation with Trade

Unions and staff. However, at this stage it is likely that initial discussions on the proposed reorganisation/restructure will take place with the recognised Trade Unions.

Management must consult:

- The Finance Department for estimates of benefits and costs, (this should be done at an early stage, before formally progressing proposals, to assess if the change is viable);
- The Human Resources/Legal Departments for advice on the employment issues.

Once the nature of change becomes clear, Management will work alongside Human Resources and the Trade Unions to ensure that each stage is fully planned and achieves fair and equitable treatment for staff.

An overview of the process of planning reorganisations/restructures is shown in the flowchart attached at Appendix 1.

It is recognised that reorganisations/restructurings are unsettling for employees and that the aim should be to complete the process in the shortest practical time, whilst allowing for meaningful consultation.

6. Consultation

The process of consultation involves giving any person likely to be affected by the changes a fair and proper opportunity to understand fully the matters about which they are being consulted and to express views on those subjects, with full consideration being given to those views. The aim of consultation is to seek mutually acceptable solutions, although recognising that the process of consultation may not always achieve this. Consultation is a means by which alternative options can be put forward and considered with the arguments for and against them being aired, without the necessity to reach agreement.

The purpose of consulting staff and Trade Unions is to encourage co-operation in finding solutions, share concerns and explore options. Prior to a formal consultation process beginning there should be an element of informal discussion between Management and Trade Unions/employees. This could include discussion of individual circumstances regarding potential early retirement, etc. This information will assist Management and Trade Union Representatives in fully understanding individual circumstances. At any stage during the consultation process there will be opportunities for individual employees to seek clarification regarding their own situation with Management and/or Trade Union Representatives.

We will endeavour to offer a minimum period of 30 days consultation, regardless of how many jobs may be at risk of redundancy. However, there is also a legal requirement to consult where redundancies are proposed, as follows:

- If up to 19 positions are to be made redundant, consultation must be at the earliest opportunity;
- If 20-99 positions are to be made redundant (within a 30 day period), consultation must begin at least 30 days before the first dismissal takes place;
- If 100 or more positions are to be made redundant within a period of up to 90 days, consultation must begin at least 90 days before the first dismissal.

If 20 or more redundancies are identified, notification must be sent to the Secretary of State for Employment on the form HR1 (within the same timeframes outlined above). The Trade Unions will also be sent a copy.

It is important to note that the consultation periods stated above relate to *number of employees* potentially redundant, as opposed to number of posts. This will be particularly relevant where more than one employee occupies a generic post.

The Consultation Framework and Reorganisation/Restructure Flowchart attached at Appendices 2 and 3 outline what should be covered at each stage of organisational restructures.

Before any dismissal takes place, the Council will as a minimum always follow the statutory three-step dismissal procedure, that is:

- **Step 1 – Consult** – outline in writing the reasons for and nature of the organisational change and give a copy to the employee(s).
- **Step 2 – Meet and follow up** – each affected employee will be invited to a meeting to discuss. The decision of redundancy will be confirmed in writing, including details of the right to appeal.
- **Step 3 – Opportunity to appeal**- if an employee feels the decision is unfair.

To ensure we comply with the above, the consultation plan will include individual consultation meetings with all employees declared at risk of redundancy. A colleague or Trade Union representative may accompany employees to the meeting.

7. What is Redundancy?

Redundancy occurs when a job has disappeared because:

- The Council is no longer going to carry out the business or service for which the person was employed;
- The Council is no longer carrying out the business or service in the place where the person is employed (in and around Northampton);
- The requirement to carry out work of a particular kind has ceased or diminished. This includes significant change to working practices, resulting in a requirement for different skills, perhaps as a result of re-organisation of services.

8. Avoiding Redundancies

The Council will aim to avoid compulsory redundancies where possible by aiming to:

- Offer suitable alternative employment where a vacancy exists;
- Restrict recruitment in areas where suitable alternative jobs may exist;
- Restrict or reduce the services of sub-contractors or agency workers in areas where suitable alternative jobs could exist;
- Reduce overtime in areas where it will reduce the threat of redundancy or provide job opportunities by doing so;
- Examine the opportunities for re-training and redeployment to other jobs;
- Take into account individuals' preferences where possible, such as requests for a reduction in hours, or a transfer to a different job or location;
- Consider requests for voluntary redundancy, (but see 9 below).

9. Voluntary Redundancy

If the measures outlined in 8 above are insufficient to achieve any necessary reduction in the workforce, expressions of interest in voluntary redundancy may be invited from selected groups of employees.

Voluntary redundancy/voluntary early retirement may not always be considered for financial and operational reasons and the Council will aim to find suitable alternative employment for all redundant employees, even if they have stated a preference for voluntary redundancy.

However, as a last resort before implementing compulsory redundancy, employees' preferences for voluntary redundancy and/or retirement may be taken into account in conjunction with the business requirements. For example, preferences for voluntary redundancy may be considered along with other selection criteria if candidates for new positions have equal skills and experience, and redundancy costs are similar.

There may also be provision for transferred redundancies, known as "bumped redundancy", in accordance with current employment legislation.

Applications will be considered in the light of the need to maintain a balance in the workforce relating to skills and experience to meet the future needs of the Service(s) concerned, as well as the cost to the Council of agreeing to a request for voluntary redundancy/voluntary early retirement. The final decision to accept/reject an application for voluntary redundancy rests with management.

10. Selection Criteria

If organisational change has created new positions, employees will be appointed to those positions in a number of ways:

10.1 Step One – Assimilation

If the new position is the same or substantially similar to the old (e.g. similar duties), employees will be assimilated into the new jobs without the need for following a selection procedure. Their Job Description will be amended accordingly when the new role commences.

10.2 Step Two – Ring-fencing

If the new position is comparable to the old, taking into account the following factors, employees may be "ring fenced" to the new jobs and given priority opportunity for consideration.

- Similar Job Purpose
- Similar accountabilities
- Working hours
- Work location

(a) Equal numbers of people and posts

Such employees will be requested to put in writing an “expression of interest” for the post(s) identified as comparable. They will be appointed via an informal interview process, at which their suitability to undertake the new role will be fully explored and agreement reached on what, if any, training they may require in order to maximise their chances of success.

(b) More people than posts

Where there are more people than jobs of a particular type available, staff may be “ring-fenced” and a competitive process will take place based on skills, knowledge and experience relative to the post. The process will be designed to suit the circumstances and roles and agreed with the Trade Unions.

10.3 Jobs offered to employees in the circumstances covered under 10.2 above will be considered “suitable alternative employment” – see 14 below.

10.4 Step Three – Redeployment

Any remaining employees who are at risk of redundancy will be given priority opportunity to apply for any remaining newly created job opportunities (as well as vacancies elsewhere in the Council) in line with NBC’s redeployment procedures – see 16 below.

10.5 Appendix 4 gives an overview of the application of the Selection Criteria.

11. **Secondees**

For employees on secondment at the time of the organisational change, their substantive post (as opposed to any post they may be occupying as a secondee) will be considered against any new posts for the purpose of the processes outlined in 10 above.

12. **Fixed Term Staff**

In most circumstances permanent employees will have priority over fixed term staff, unless the fixed term member of staff has continuous NBC service. Therefore fixed term staff will not be included for ring-fenced job opportunities. This does not apply where a fixed term worker has been employed for more than 4 years, in which case they would be considered in the same way as a permanent employee.

In order to meet the requirements of the Fixed Term Worker Regulations, Northampton Borough Council will ensure fixed term employees are consulted, have the same opportunities to go into the redeployment pool and receive redundancy payments where they are due. Under the Regulations, the circumstances whereby fixed term workers are employed to complete particular tasks and/or to cover a peak in demand and/or where limited funding is available, is accepted as an “objective justification”. Fixed term staff employed in circumstances other than this will be managed on a case-by-case basis during reorganisations/restructures.

13. **Absent Employees**

Where employees are absent during the consultation period, the Council will make provision to contact them at the same time as employees attending work. For employees

who are on annual leave, sickness or maternity leave, a decision will be made about how best to consult with them depending on the circumstances.

14. Offers of Suitable Alternative Employment

The Council will seek suitable alternative employment for every employee whose job is redundant. Suitable alternative employment is a job that is comparable to the existing post. For clarification of the factors determining suitable alternative employment, please refer to 10.2 above.

If there are significant differences to the previous position, it probably does not constitute a suitable alternative job.

Where a suitable alternative job offer is made, it will be offered as far in advance as possible before the end of the notice period. If an employee refuses an offer of suitable alternative work, they must inform the Council within 7 working days of the offer. If the refusal is deemed to be unreasonable it will lead to loss of redundancy pay. However, if an offer of suitable alternative work is made during the final third of the notice period (e.g. for 12 weeks notice, during the last 4 weeks), the employee will not forfeit the right to redundancy pay if they refuse the offer.

15. Trial Period

The provision of a trial period when we have offered "suitable alternative employment" gives both employees and management the chance to decide whether the new job is suitable.

The trial period for a "suitable alternative employment" job is 4 weeks. It may be extended by mutual agreement for re-training purposes up to 12 weeks, provided it is confirmed in writing, gives an end date and sets out the terms and conditions at the end of the trial. If any employee continues working beyond the end of their trial period they will lose the right to redundancy pay, as they are deemed to have accepted the new job.

If the Council decides the trial has been unsuccessful (for reasons connected with or arising out of the difference between the previous position and the "suitable alternative employment"), the employee will retain their right to redundancy pay. If the employee decides the "suitable alternative employment" is not suitable, for whatever reason, the employee will retain their right to redundancy pay unless the employee is unreasonable in their refusal of the "suitable alternative employment".

Where a trial is unsuccessful any remaining notice period will be honoured, during which time other suitable jobs may arise (and a new trial period would apply).

16. Redeployment Process

The redeployment process will be used when a suitable alternative job is not immediately apparent.

As part of the Council's commitment to continued employment, all potentially redundant employees will go into the redeployment pool for the duration of their notice period. HR will add the employees' details to an electronic list and will support the employee in identifying suitable roles.

The redeployment period for a redundant employee is equal to the employee's contractual notice period and, for employees whose notice period is less than eight weeks, will be extended to eight weeks to maximise opportunities for redeployment.

During the redeployment period, potentially redundant employees will continue to work in their existing role unless not required. Staff who are not required to attend work will continue to be paid on their normal pay (i.e. the average of the last 12 weeks' earnings) and remain available for work on "garden leave".

During the redeployment period, the employee may choose to apply for any vacancies. HR are responsible for quality checking short lists for vacancies to ensure that decisions are fair. If the employee is unsuccessful in any application they will continue in the redeployment pool for the remaining notice period.

17. Prior Consideration

During the redeployment period, in cases of redundancy, disability, ill health or termination of a fixed term contract, employees will be given prior consideration for vacancies.

This means that provided they have the required skills and attributes for the job (or the skill gap can be bridged with training within 3 months) they will be selected for the job above another employee who is not in the redeployment pool. Candidates with prior consideration must still attend an interview. The interview will be attended by the recruiting Line Manager and a representative from HR.

In cases where more than one applicant is entitled to prior consideration, the order of priority will be:

1. Redundant employee who is on maternity leave;
2. Disabled employee (as defined by the Disability Discrimination Act);
3. All other redundant employees;
4. Ill health cases, other than disability (as defined by the Disability Discrimination Act) cases;
5. Termination of fixed term contract.

Where two or more applicants are in the same priority position, the best candidate will be offered the job based on the required skills and attributes.

18. Pay Protection

In the event of redeployment the employee will be paid at the rate for the alternative job where this is the same rate or a higher rate than the job previously undertaken.

If the alternative job is paid less than the employee's existing job, the employee's contractual pay will be protected for a period of 12 months full protection followed by a further 6 months of 50% protection. After this the rate of pay will revert to the rate for the job.

NOTE: The Trade Unions are not in agreement with this section.

19. Compulsory Redundancies

Compulsory redundancy will not be considered until all other avenues have been explored and exhausted. In considering compulsory redundancy the Council will have due regard to equal opportunities legislation.

Should compulsory redundancy become necessary, each individual case will be considered on its merits and will be subject to consultation. The criteria on which the final decision will be based on:

- The need to maintain a balance in the workforce relating to skills and experience to meet the future needs of the Service(s) concerned.
- Employees' attendance records (excluding absence for annual leave, training, special/compassionate/dependency leave, maternity/time off for antenatal care, pregnancy related absence, disability related absence or disability leave and time off for Trade Union duties) over the preceding 36 months.
- Employees' disciplinary records over the preceding 12 months.

20. Redundancy Payments

Employees with more than two years' service will be entitled to redundancy pay in line with Local Government guidelines and statutory provisions. Redundant employees will receive three elements of their final pay:

- Normal pay (including pay in lieu of any outstanding leave) up to the agreed leaving date;
- Where applicable, pay in lieu of outstanding notice;
- A severance payment (where entitled) calculated in accordance with the statutory provisions and the Council's Early Retirement/Severance Scheme.

21. Support for Redundant Employees

Northampton Borough Council recognises that reorganisations/restructures and the risk of redundancy can be a stressful and unsettling time. Managers, with the support of Human Resources, are committed to helping employees by:

- Maintaining regular and effective two-way communication with staff during any reorganisation;
- Supporting employees in their development so they can work towards a new job which may require different skills;
- Arranging counselling if requested by the employee;
- Allowing reasonable paid time off during working hours to seek alternative employment.

22. Appeals against Redundancy

Employees who are selected for redundancy, or dismissed because of redundancy, have the right to appeal if they feel that any aspect of the decision is unfair.

22.1 Appeals against Redundancy

This procedure exists to deal with complaints from employees who feel that any aspect of the Restructure Policy has been unfairly applied. Employees are entitled to register an appeal once notice of redundancy has been issued (before the proposed dismissal date).

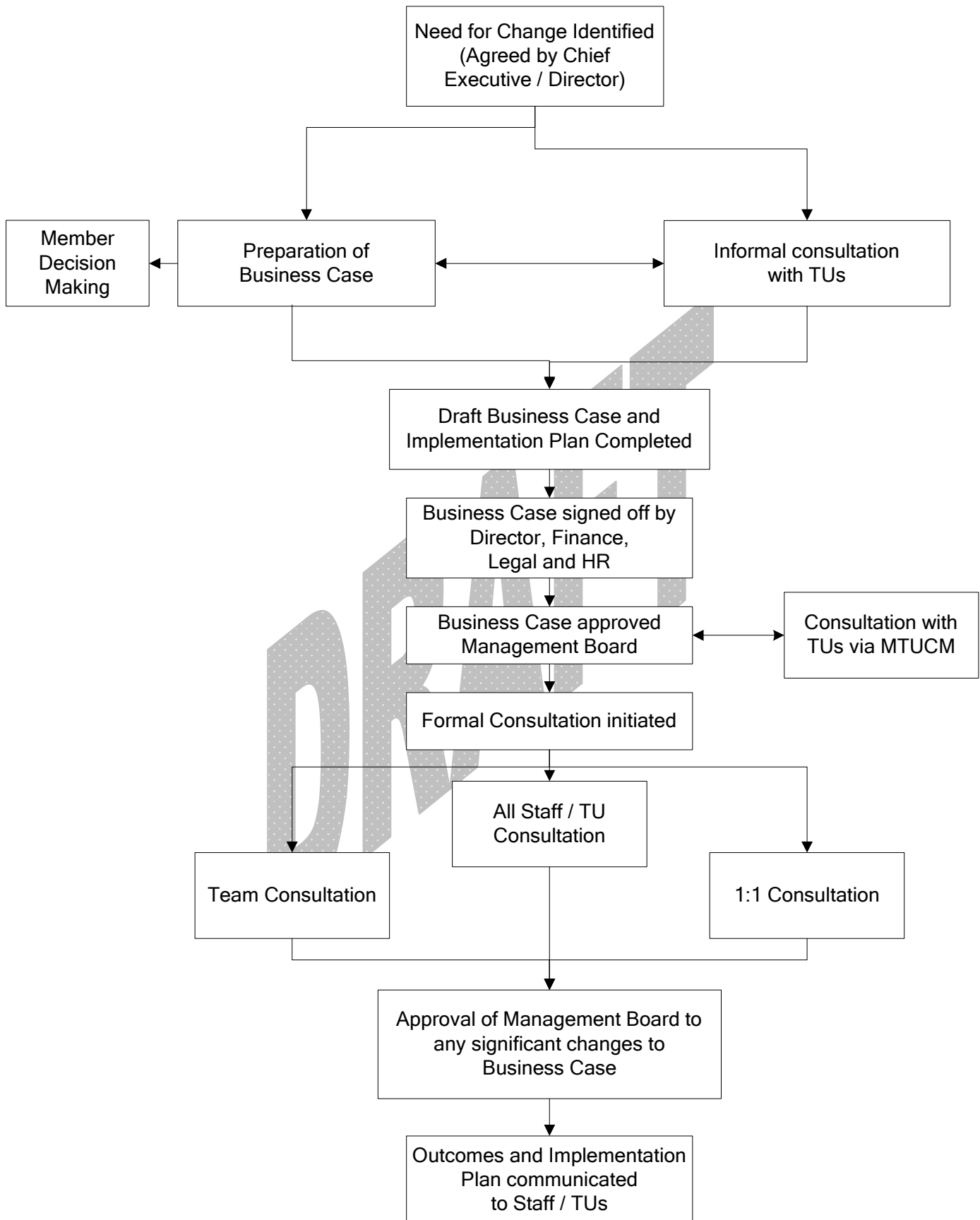
- An appropriate Director/Assistant Chief Executive/Head of Service will hear appeals, (where possible this Director/Assistant Chief Executive/Head of Service will be outside of the immediate area(s) affected by the reorganisation/restructure).
- The employee has the right to be accompanied by a Trade Union representative or colleague at the appeal meeting.
- The employee has 7 working days to lodge an appeal following written confirmation of the outcome of the selection process.
- Statements must be submitted 3 working days before the appeal hearing.
- The aim is to resolve within 15 working days.
- The decision of the Director/Assistant Chief Executive/Head of Service is the final stage in the appeals process.

22.2 Appeals against Dismissal

Appeals against dismissal will be held in accordance with the Council's current procedures.

DRAFT

Planning Reorganisations/Restructures

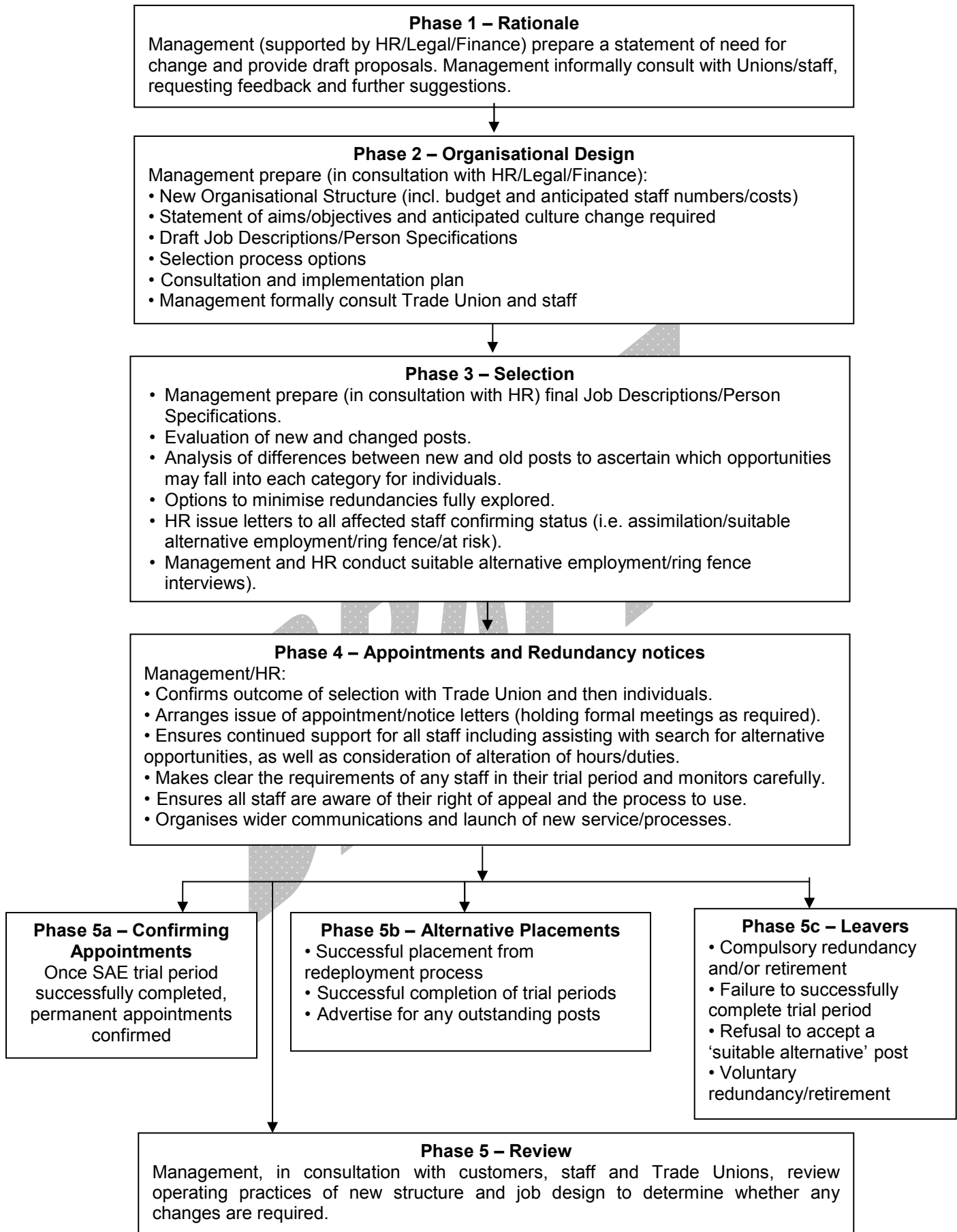


Consultation Framework

This outlines the standard consultation process for reorganisations/restructures. Management should use the bullet points as prompts, and insert the dates for completion on the right hand side. Note must be taken of the minimum statutory consultation periods (see section 5 of the Policy for further information.)

| Phase | Information required for consultation with Trade Unions and staff | Timescale |
|----------------|--|-------------------------------------|
| Phase 1 | Rationale: <ul style="list-style-type: none"> • Statement outlining the need for change • Explanation of the issues and reasons they have arisen • Proposals for dealing with future service requirements • Request for feedback/suggestions from Unions and affected staff • Outline anticipated consultation and implementation plan | Unions: Staff: |
| Phase 2 | Organisational Design: <ul style="list-style-type: none"> • Statement confirming the new organisational structure (including provision of before and after structure charts) • Explanation of aims and objectives of the new structure and the skills/behaviours and anticipated culture expected • Provision of draft Job Descriptions/Person Specifications • Agree selection process with Trade Unions and communicate to staff • Update consultation and implementation plan | Unions: Staff: |
| Phase 3 | Selection Process: <ul style="list-style-type: none"> • Final JDs/Person Specs and job evaluation • Comparison of old and new posts (to confirm status of individuals) • Letters issued to all staff confirming individual status • Suitable alternative employment/ring-fence interviews undertaken | Unions: Staff: |
| Phase 4 | Appointments and Redundancy notices: <ul style="list-style-type: none"> • Appointments confirmed with Trade Unions • Appointment and notice letters issued • Individual meetings held with staff at risk of redundancy to ensure that all choices are fully explored • Formal redeployment search commenced • Wider announcements and launch of changes/structure | Unions: Staff: |
| Phase 5 | Outcomes: Unions will need to be consulted over any unsuccessful trial periods and/or refusals to accept suitable alternative posts. Employees may choose to involve a Union Rep in any appeal. | As required |
| Phase 6 | Review: On conclusion of any reorganisation/restructure, management are encouraged to review the operating practices of the new Service(s) with customers, staff and the Trade Unions to assess the success of the reorganisation/restructure. It is recommended this takes place six months after implementation and includes a review of the structure itself as well as job design to determine whether any adjustments are required. | <u>Staff:</u> <u>Unions:</u> |

Reorganisation/Restructure Flowchart



Application of Selection Criteria Flowchart

