

Members' Library Service Request Form

Date of Document	03/12/18
Originator	Zoe Mcfadzean
Originator's Ref (if any)	
Document Title	Protocol for Appointment of Support Staff Where Schools Merge/Close

Please indicate if access to the document is to be "unrestricted" or "restricted", with regard to the terms of the Local Government (Access to Information) Act 1985.

Unrestricted	<input checked="" type="checkbox"/>	Restricted	<input type="checkbox"/>
--------------	-------------------------------------	------------	--------------------------

If the document is "restricted", please state on what grounds (click on grey area for drop-down menu):

For Publication

Additional information:

Authorised By	Fiona Robertson
Designation	Head of Education
Date	01/12/18

For Office Use Only:	
Library Reference	178/18
Date Received	03/12/18
Bulletin	Dec18

REPORT TO: Members' Library Service

MEETING DATE:

BY: Head of Education

SUBJECT: Protocol for Appointment of Support Staff Where Schools Merge/Close

1 PURPOSE

- 1.1 To inform Members of the Protocol for the appointment of support staff where schools merge or close.

2 RECOMMENDATIONS

- 2.1 To note the attached Protocol.

3 BACKGROUND

- 3.1 With an existing proposal to merge two schools and potential for others in the future, a Protocol has been established which sets out the process for appointing a Head Teacher and job matching teaching staff to the new merged staffing structure in the new school. This additional Protocol has been drafted to clarify the process that will also apply to support staff in affected schools.
- 3.2 The attached Protocol has been the subject of consultation with UNISON colleagues, as well as members of the Local Negotiating Committee for Teachers.

4 POLICY IMPLICATIONS

- 4.1 In the situation where any member of the support staff has not been directly or competitively matched to a post in the new structure, the procedure for redeploying surplus support staff in schools will apply.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy

6 RESOURCE IMPLICATIONS

- 6.1 Financial – Should any post-holder be redeployed to a lower graded post the relevant conservation of salary arrangements will apply. The costs of this will be met from the devolved school budget.
- 6.2 Personnel - With growing school roles it is not anticipated that any post will not be able to be matched to another post.

7 BACKGROUND PAPERS

- 7.1 Protocol for the Appointment of Support Staff Where Schools Merge/Close

AUTHOR'S NAME	Fiona Robertson Zoe McFadzean
DESIGNATION	Head of Education HR Business Partner
CONTACT INFO	01620 827834 01620 828772
DATE	28 th November 2018

Protocol for the Appointment of Support Staff Where Schools Merge/Close

Section 1 - Introduction

A school merger, involving at least 2 schools merging to create one new school, or the development of a new school management structure within an existing school following a staffing review, will inevitably have an impact on jobs and people. With an ongoing need to maintain a consistently high quality and continuous improvement in education services, there is a need to effect as smooth a transition as possible during such organisational change, with the minimum disruption to education provision. At the same time, the Council has an obligation under both employment protection legislation, and its aim of being a "good employer", to protect employees' security of employment, along with a achieving a key objective in the Council's Workforce Plan of sustaining a skilled, flexible and motivated workforce. This Protocol for job matching support staff to a new merged school helps to achieve these aims.

This Protocol is consequently designed to establish a fair and consistent approach to a school merger, and the subsequent restructuring and matching of support staff. In particular, the protocol is underpinned by the need to have regard to economy, efficiency, and equality of opportunity at all stages of the process. This includes minimising disruption for pupils and employees, minimising the possibility of redeployment/redundancy and proceeding within national/local agreements, and terms and conditions.

Distinction between "school merger" and "school restructuring"

This protocol recognises that there is a clear distinction between school mergers and the process of designing a new school structure in an existing school as part of a service review process. This distinction is important as it affects the way in which jobs are filled in either situation. In the latter situation please refer to the *Protocol for the Conduct of Service Reviews*.

A "school merger" results in at least two existing schools being closed and the creation of an entirely new school, even though that school may be located within the premises of a school (or schools) that previously existed, or the closure of at least one school and the merging with an entirely new school to create one entity. Support staff from all schools closed as a result

of the merger process have equal status and an equal opportunity to be matched to a job in the structure of the newly created school.

Determining the new structure

The new Head Teacher (or nominee), in consultation with the recognised Trade Unions, and in accordance with the Devolved School Management staffing allocation, and job evaluation processes, would determine the new school structure.

Section 3 – Filling Jobs following School Merger

All permanent support staff in the closed schools, and those employees with a temporary contract who will have at least 2 years continuous service at the point of transfer, will be eligible to be matched to jobs in the structure of the new school. Temporary employees who will have less than 2 years' service at the point of transfer, will be given contractual notice of their contract ending.

No employee, regardless of the school in which they were formerly employed, will be given preferential treatment. The following key steps will apply:

- Where there is no change in the requirement for support staff all eligible support staff will be directly matched
- Where there are less posts than staff, or there is not a match in terms of contractual hours for part-time employees, support staff will be asked to complete a Personal Profile form. A competitive matching exercise will then be undertaken in conjunction with colleagues in HR with the successful person(s) matched to a post in the new structure
- Any support staff who are not directly or competitively matched to a position within the new structure will be declared surplus and the procedures for redeploying surplus support employees in schools will apply.
- Redeployment options will be exhausted as part of this process but should there be a reduction in grade, the relevant conservation of salary arrangements will apply.
- Employees will not be matched against a job which they are temporarily covering (for example on a secondment or "acting up" basis). In such cases, it is the substantive (permanent) job-holder

who will be considered for matching and NOT the acting, temporary or seconded employee. Exceptionally however, where a post-holder has been undertaking the role for 2 years or more, following consultation with the relevant Trades Union, they may be eligible to claim a match in the new structure.

- Only once the matching process for all permanent support staff, and those with temporary contracts for 2 years or more has been completed, can any support post still vacant, be advertised.
- New contract letters will be issued to all support staff in new posts.

Head of Education
August 2018

**EAST LoTHIAN COUNCIL
POLICY AND PROCEDURE FOR DEALING WITH REDUNDANCIES**

1.0 The Head of Council Resources must be notified by the Executive Director or Head of Service of all employees affected by the redundancy situation. The Head of Council Resources shall have arranged for the completion of Personal Profile forms detailing the experience, qualifications, etc. of employees affected.

1.1 The Head of Council Resources shall ensure that all Council vacancies that arise are scrutinised, with due reference to the Vacancy Monitoring Procedure, so that detailed consideration can be given to the posts being filled by the redeployment of any potentially redundant employees identified within the Council. No post shall be generally advertised internally or externally until this process has been completed. Where a post is the subject of the Vacancy Monitoring Procedure the request to fill the post will include reference to this fact.

1.2 Employees will be provided by the Head of Council Resources with information relating to the posts available elsewhere in the Council, but the employee will not be required to submit an application at this stage.

1.3 The criteria to be taken into account by the Executive Director or Head of Service in conjunction with the Head of Council Resources will be derived from the Personal Profile form based on the general principle of establishing the skills, qualifications and experience of the employee for assessment against the requirements of a post.

1.4 Prior to an offer of alternative employment being made, the Executive Director or Head of Service and the Head of Council Resources shall meet individually with the affected employee(s) to discuss appropriate matters with them and to hear any representations they would wish to make.

1.5 Thereafter, the employee will meet the Executive Director or Head of Service and his or her representative when the alternative post to be offered will be discussed.

1.6 The Head of Council Resources will subsequently offer the post to the employee as an alternative to compulsory redundancy, although the employees will be entitled to a four week trial period in the new post. If at the end of the trial period the employee does not consider the alternative post acceptable he or she should inform the appropriate Executive Director or Head of Service within five working days of the end of the four week trial period. The Executive Director or Head of Service, in consultation with the Head of Council Resources, shall review the position following which it will be decided that:

- (i) the decision to consider the employee redundant and the offer of redeployment of the employee was, in all the circumstances, reasonable; or
- (ii) the decision to consider the employee redundant was reasonable but the employee should be redeployed to a different post; or
- (iii) an extension to the statutory four week trial period should be considered.

The decision shall be communicated to the employee within five working days by the Head of Council Resources.

2.0 REFUSAL TO ACCEPT ALTERNATIVE EMPLOYMENT

2.1 Where, following the above considerations, the employee refuses to accept the alternative employment he/she will then be dismissed by 'reason of redundancy'. The letter of dismissal will be issued by the Head of Council Resources who may exercise the statutory right to withhold statutory redundancy payments.

3.0 TERMS AND CONDITIONS OF EMPLOYMENT

3.1 It may necessary to offer an employee posts which are graded at a lower salary or wage rate than the employee's original post. In these circumstances the employee will be offered and expected to accept employment on the terms and conditions applicable to the new post. However in order to assist the employee in adjusting to the changed circumstances a compensatory payment will be made. The compensatory payment will be the difference between the higher contractual salary or contractual wages paid in the original post and the lower contractual salary or contractual wages to be paid in the new post at the time that the reduction occurs. The compensatory payment will be made for a period of three years from the date on which the reduction occurs, following which the employee will be paid the salary or wage applicable to the new post at that time.

3.2 Where the employee is in receipt of payments, such as shift allowances, enhanced weekend payments, standby payments, overtime payments (whether conditional or contractual) etc., and the conditions justifying such payments do not pertain in the post to which the employee is redeployed, such payments will cease and will not be taken into account in the calculation of any compensatory payment.

3.3 Where an employee is redeployed the provisions of the appropriate Conditions of Service in force at the time shall apply in respect of travelling expenses and removal expenses; but a redeployed employee is eligible to receive additional excess home to work travel payments as defined in the National Agreements.

4.0 TRAINING

4.1 Reasonable and necessary training required as a consequence of redeployment will be given in accordance with the terms of the Councils Training and Development Policy.

5.0 RETURN TO ORIGINAL EMPLOYMENT FIELD

5.1 It may be necessary to redeploy employees outwith their recognised employment field. In these circumstances the employee(s) will be given first priority consideration for any subsequent vacancy which arises in that field for a period of one year from the date of taking up the alternative employment. Such priority consideration shall not however apply where the employee concerned has, in the intervening period, moved to another post at his or her own request and or application.