

Code of practice on handling staffing reductions in
primary, secondary and special schools 2009 where
the power of dismissal has **not** been delegated to the head teacher

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WHAT IS REDUNDANCY?

A redundancy situation arises when there is a reduced requirement for work or for work of a particular kind. The services of an employee may be terminated on the grounds of redundancy and a redundancy payment may become payable where:

- the post occupied by the employee is deleted from the staffing structure and the employee is not redeployed to some other post within the school or the local authority;

or

- an employee is deemed redundant, their post is retained but a directly related post is deleted, for example a deputy head is made redundant and is replaced by a head of department whose head of department post is deleted;

or

- the overall number of posts remains the same but the work needed is of a particular kind, such as the case in a “curriculum mismatch” where, for example, a teacher of French may no longer be required but a teacher of German is required.

It is important to note that employees in certain circumstances do not qualify for a redundancy payment:

- those continually employed for less than two years;
- those whose existing post is redundant but who unreasonably refuse an offer of a suitable alternative post from the school or authority. “Suitable” means that the offered alternative is appropriate to the employee’s skills, within a reasonable travelling distance and is on broadly similar conditions of employment. This may include small reductions in hours and pay.

Note also that notice of dismissal will be withdrawn where the circumstances of the school change to allow for the continued employment of the employee, for example where another person leaves and their post may be offered to the redundant employee as a suitable alternative. Similarly, redundancy will not be paid where, before the end of their employment, the redundant employee receives an offer of a suitable job with the authority or from any associated employer listed in the statutory Modifications Order.

RECOMMENDED TIMESCALES

There are three recommended timetables of actions included here, one for each term falling within the 2009 calendar year, not only for redundancies effective from 31 August.

Generally

- References to not issuing S:188 Notices until notification of budgets by the County Council will not apply in all cases. **However, schools are urged not to issue provisional notices.**
- The recommended timetables show deadline dates to meet requirements for consultations, the calling of meetings and the issuing of notice. The process may be started earlier and schools are advised not to run to the tightest timescales.
- Many stakeholders believe the gap between the first and second meetings of the Selection Committee should be at least a week.

30 April redundancies

- The process starts in November.
- The process ends at 13 March. Schools close for Easter on 6 April. Matters will need to be resolved by that time because, although the effective date is 30 April to comply with teachers' conditions of service, more often than not the employee's actual last day at school is the last working day of the Spring Term.

31 August redundancies

- The issue date for the S:188 Notice is 20 March but it might be advisable to issue it beforehand if school budgets have been received and analysed.

31 December redundancies

- There appears to be a long gap between the issue of the S:188 Notice and the deadline for unions to respond. This is to capture 10 working days of consultation between the end of the Summer Term (21 July) and the beginning of the Autumn Term.

RECOMMENDED TIMETABLE: REDUNDANCIES AT 30 APRIL 2009

Provisional decision to reduce staffing level
Consultations with officers / advisers
Meeting with school representatives of unions
Staff meeting
Confirmation by Governors of need to reduce
Notification to C&LL HR
Issue of Section 188 Notice **17 November 2008**

Deadline for receipt of comments from unions to
the S:188 Notice [28 calendar days from date
of issue] **15 December 2008**

CHRISTMAS CLOSURE 20 DECEMBER 2008 – 4 JANUARY 2009

First meeting of Selection Committee **8 January 2009**

Consideration by staff and school representatives
of draft staffing structure and of criteria for selection
of post(s) to be displaced **9 - 15 January 2009**

Second meeting of Selection Committee **16 January 2009**

Information to employee(s) selected and issue of
"Measures to Assist" Pack to them

Information to C&LL HR of selection(s) **19 January 2009**

Deadline for notification by employee(s) selected
of wish to make representations to the Selection
Committee **22 January 2009**

Third meeting of Selection Committee **29 January 2009**

Service of notice of dismissal by Corporate Director
of C&LL (HR Schools Consultancy Team) **30 January 2009**

Deadline for notification by employee(s) selected
of wish to appeal **9 February 2009**

HALF TERM 16 – 20 FEBRUARY 2009

Appeal Meeting and notification of outcome to
employee(s) and to C&LL HR **13 March 2009**

RECOMMENDED TIMETABLE: REDUNDANCIES AT 31 AUGUST 2009

Provisional decision to reduce staffing level	
Consultations with officers / advisers	
Meeting with school representatives of unions	
Staff meeting	
Confirmation by Governors of need to reduce	
Notification to C&LL HR	
Issue of Section 188 Notice	20 March

EASTER CLOSURE 6 – 20 APRIL 2009

Deadline for receipt of comments from unions to the S:188 Notice [28 calendar days from date of issue]	20 April
First meeting of Selection Committee	21 April
Consideration by staff and school representatives of draft staffing structure and of criteria for selection of post(s) to be displaced	22 - 29 April
Second meeting of Selection Committee	30 April
Information to employee(s) selected and issue of "Measures to Assist" Pack to them	
Information to C&LL HR of selection(s)	1 May
Deadline for notification by employee(s) selected of wish to make representations to the Selection Committee	11 May
Third meeting of Selection Committee	19 May
Service of notice of dismissal by Corporate Director of C&LL (HR Schools Consultancy Team)	20 May

HALF TERM 25 – 29 MAY 2009

Deadline for notification by employee(s) selected of wish to appeal	5 June
Appeal Meeting and notification of outcome to employee(s) and to C&LL HR	26 June

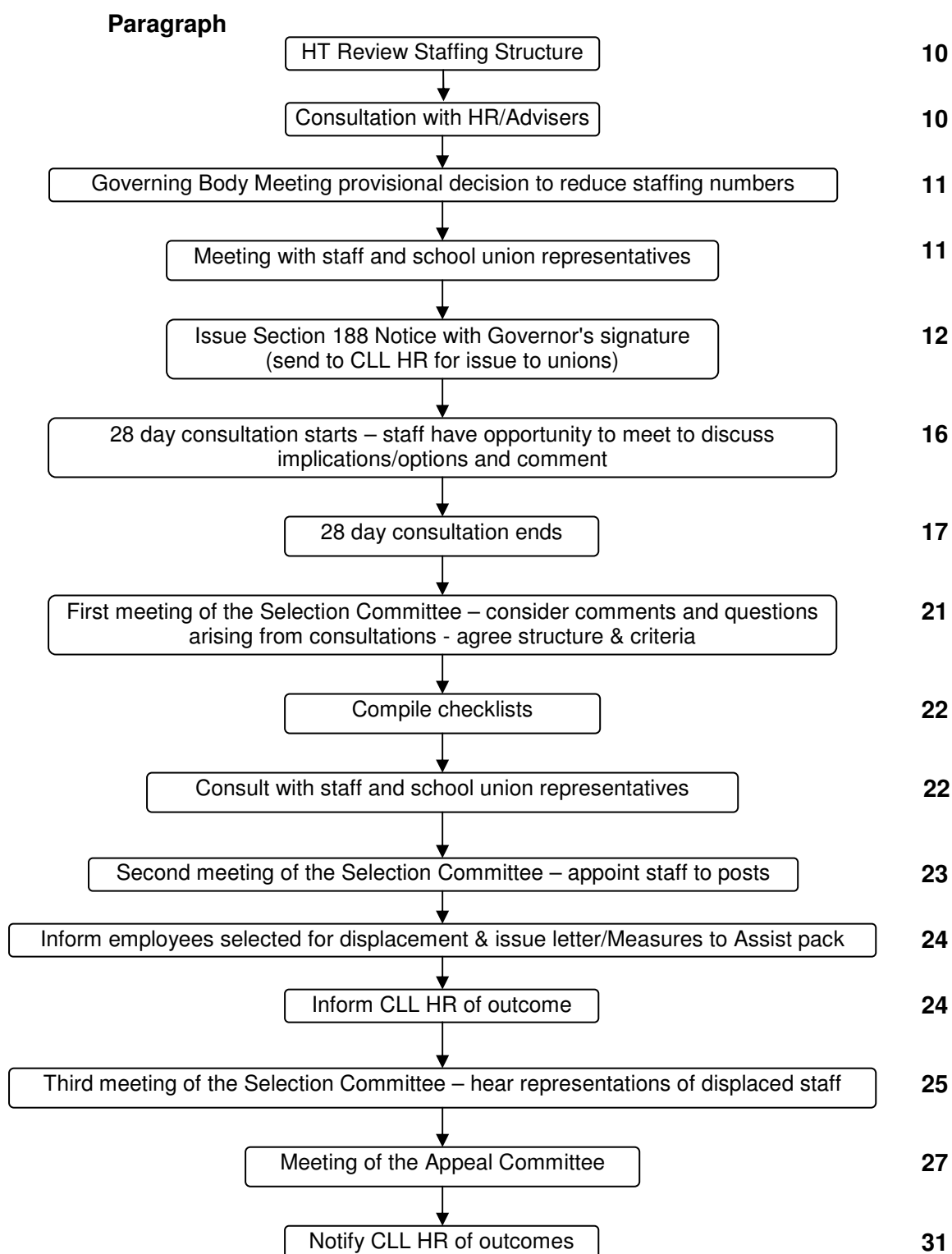
RECOMMENDED TIMETABLE: REDUNDANCIES AT 31 DECEMBER 2009

Provisional decision to reduce staffing level	
Consultations with officers / advisers	
Meeting with school representatives of unions	
Staff meeting	
Confirmation by Governors of need to reduce	
Notification to C&LL HR	
Issue of Section 188 Notice	3 July

SUMMER CLOSURE 22 JULY - 4 SEPTEMBER 2009

Deadline for receipt of comments from unions to the S:188 Notice [28 calendar days from date of issue]	7 September
First meeting of Selection Committee	8 September
Consideration by staff and school representatives of draft staffing structure and of criteria for selection of post(s) to be displaced	9 – 15 September
Second meeting of Selection Committee	16 September
Information to employee(s) selected and issue of "Measures to Assist" Pack to them.	
Information to C&LL HR of selection(s)	17 September
Deadline for notification by employee(s) selected of wish to make representations to the Selection Committee	22 September
Third meeting of Selection Committee	29 September
Service of notice of dismissal by Corporate Director of C&LL (HR Schools Consultancy Team)	30 September
Deadline for notification by employee(s) selected of wish to appeal	8 October
Appeal Meeting and notification of outcome to employee(s) and to C&LL HR	16 October

REDUNDANCY FLOW CHART



PURPOSE OF THE CODE OF PRACTICE

1. This code has been drawn up by the County Council in consultation with the professional associations and trade unions representing teachers and support staff in schools. All are referred to as unions.
2. The County Council will ensure that Governors are aware of the provisions of the Code and that, in giving guidance on staffing matters to them, its' Officers will recommend the procedures set out in the code.
3. The County Council and unions agree that this code of practice represents the proper way of dealing with such situations but the unions reserve the right to question the need for staffing reductions in each case.
4. To this end, regular meetings will be held between the Corporate Director, Children and Lifelong Learning (CLL) and the County/Branch Secretaries of unions to ensure, as far as possible, compliance with this code of practice and with the requirements of employment law. Governors must follow the law. If Governors ignore the advice of the County Council and a case goes to Employment Tribunal, the Governing Body will have to meet the cost of any award/settlement from the school's delegated budget.
5. This code of practice is commended to the Governors of primary, secondary and special schools for use whenever they find (after a thorough review of resource allocation) that they might have to:
 - (a) reduce the number of staff employed at the school; or
 - (b) dismiss staff on permanent or temporary appointments on the grounds of redundancy (whether that be voluntary or compulsory redundancy); or
 - (c) reduce the number of hours of any member of staff, whether on a voluntary or compulsory basis.
6. Fluctuations in pupil numbers and consequential changes in budgets (where a school is formula-funded) mean that schools must regularly review their staffing levels. Reductions in staff numbers will not be undertaken without a thorough review of all budget heads and associated non-financial considerations and without consideration of the position of all staff. This review will include consideration of the use of virement and contingency funds to protect staffing, particularly if it is anticipated that the reduction will be for one year only. Schools are advised not to start the process without clear budgetary information.
7. Data concerning schools' budgets and pupil numbers will be published to trade unions separately and will be taken from the JFU's published financial information and pupil numbers submitted by schools in their PLASC returns.
8. This procedure may be used where changes are proposed to group caretaking arrangements – head teachers should consult the CLL HR Unit as a separate procedure applies.

STAGE ONE – INITIAL ACTION BY GOVERNORS

9. Establish a committee structure to consider reductions in staffing levels.

9.1 The Governing Body has overall responsibility for all staff dismissals, with the exception of the dismissal of the head teacher. The Governing Body has to authorise the issue of the Section 188 Notice or authorise their Chair to do so under “Chair’s Power to Act”, BUT **the full Governing Body must not be involved in the selection of individuals to be displaced under this procedure.**

9.2 Care must be taken, therefore, when the head teacher initially flags up to the Governing Body that reductions in staffing levels will be required.

9.3 Governors will use two committees (with a Chair appointed for each) in order to carry out the following functions:

- a) **A Selection Committee** to give consideration to a revised staffing structure and to the selection of staff for displacement in order to achieve the staffing reduction. The Selection Committee must consist of at least three Governors;
- b) **An Appeals Committee** to consider any appeals lodged against decisions of the Selection Committee. The Appeals Committee must have at least three Governors.

9.4 In view of the issues under consideration, the Corporate Director, (CLL) and the unions strongly recommend that:

- employee Governors are not appointed to either the Selection or Appeals Committee;
- no Governor may be a member of both committees and there should be no discussion between members of the two committees about any decisions under consideration;
- the head teacher will not be a member of either committee but has a right to attend all meetings and to give his/her views on the issues under discussion.

9.5 It is recommended that, wherever possible, the Committees contain more than the minimum number of members or have a reserve member in attendance. This will allow business to proceed even though there might be difficulty over all members attending particular meetings.

9.6 **Provisional dates for meetings of the Selection Committee and Appeals Committee will be fixed in advance, be included on Section 188 Notices and be made known to staff.**

9.7 Governors will notify the Corporate Director (CLL) of all such meetings and invite his views on the position. They will take account of his views. The Corporate Director has the right to be represented at all meetings of the Selection and Appeals Committees.

9.8 Where the head teacher believes a reduction in staffing numbers is required, the approval of the Governing Body should be sought, in principle, to the instigation of this code of practice; and it is recommended that:

- a) those Governors identified as members of the selection and appeals committees are informed that they may be required to consider proposals for redundancies; and
- b) they ensure that they are fully aware of the process that is required to be followed when considering redundancies, and the head teacher/Governing Body seeks professional advice and support from the Children and Lifelong Learning Directorate.

10. Review the budgetary position and consider options

10.1 The head teacher will review the budgetary position of the school and will determine what staffing structure can be maintained for the following academic year. She/he might wish to seek advice from her/his Senior HR Adviser and other LA Advisers on the implications of options.

10.2 The aim is to design a staffing structure, within the budget available, best suited to the needs of the school, taking account of:

- curriculum delivery
- pastoral arrangements
- the workload agreement legislation and general management requirements.

Where the Governors of schools judge that there is a significant possibility of staffing reductions, they will consider both the extent of the risk and measures that might be adopted to avoid compulsory displacement, including:

- a) not replacing members of staff who resign. (If the resignation takes effect before the end of the academic year, a fixed-term appointment to cover the post for the remainder of the academic year is not precluded.);
- b) not renewing temporary¹ contracts of existing staff who have less than two years' continuous employment with the Authority;
- c) seeking volunteers for displacement, e.g. voluntary redundancy or early retirement;
- d) voluntary reductions in hours by existing staff, including job-sharing.

10.3 Any staff considering volunteering for a reduction in hours or for displacement should be strongly advised to seek the advice of their union before confirming their wish to volunteer. The County Council will meet relevant costs which arise only in respect of posts funded under the school's delegated budget or additional posts which are centrally financed. Funding will not be provided in respect of posts established under separate school initiatives.

¹ Under the provisions of the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations, an employee on a temporary contract has the right NOT to be treated less favourably than a permanent employee, unless there is a specific operational justification for this. They have the right to pursue a claim of unfair dismissal if they have one year's continuous employment with the County Council – this includes service with another school or Local Authority. In such cases, it is essential that further advice is sought from the CLL HR Unit before reaching a decision.

STAGE TWO – CONSULTATION AND COMMUNICATION

11. When the head teacher has determined, in consultation with the Governing Body, that a reduction in staffing numbers is required, s/he will:

a) call a meeting of all employees solely to discuss the position - no later than five school working days following the decision to reduce staffing numbers.

It is recommended that all meetings be minuted and copies placed on staff notice boards.

The purpose of the staff meeting will be to give particular consideration to how reductions can be achieved without compulsory displacement. [The adoption of any of the options in 10.2 will be dependent on it not causing undue damage to the operational requirements of the school.] It is expected that the staff meeting will take place in advance of a meeting of the Selection Committee.

b) advise the school representatives of the recognised unions of the meeting.

12. Head teachers should:

a) liaise/consult closely with staff at all times. A copy of this Code of Practice must be made available so that employees are aware of the process to be followed and each should have the opportunity to meet the head teacher individually, if they wish;

b) notify all staff not present in school on the day of the meeting (e.g. by reason of illness, maternity, CPD etc) of the agenda beforehand and provide them with the minutes as soon as practicable afterwards;

c) keep a record of all meetings and consultations on the reductions to be made. A model form is at **Appendix 11**

13. If, after the consultation process, the head teacher considers it necessary to:

- reduce staffing numbers,
- reduce weekly hours of staff, or
- dismiss, or reduce the hours of, any teacher (permanent or temporary) to correct a curriculum mismatch, or
- dismiss a member of the support staff.

A Section 188 notice will be completed and the Chair of Governors will inform the CLL HR Schools Consultancy Service who will initiate statutory consultation with the unions (required under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992).

A model covering memorandum is set out at **Appendix 2** and sample Section 188 notices are incorporated into the appendices as shown below. Copies for download and completion as guided may be found on the SLN.

Section 188 Notice - Teachers:

For the model Section 188 notice see **Appendix 3**.

Teachers' contracts only allow dismissals to take effect on one of the following dates: 30 April, 31 August or 31 December.

Section 188 Notice - Teachers: curriculum mismatch:

A separate model notice is included as **Appendix 4**.

Section 188 Notice - Support Staff:

A separate model exists for reductions in support staff numbers. This is set out in **Appendix 5**.

14. The Chair will ensure that copies of the s188 notices are posted on staff notice boards **after** all staff have been informed of decisions to issue them.

15. The HR Unit (CLL) will draw up schedules of these notices and will send them to the County and Branch Secretaries of the recognised unions. Regular meetings will be held between the CLL HR Service and County/Branch Secretaries to monitor the position in individual schools and to ensure as far as possible that the requirements of employment law and of this code of practice are being met.

16. A period of 28 calendar days (including not less than 10 working days) will be allowed for responses to Section 188 notices and for any consultations to take place. The HR Unit (CLL) will acknowledge receipt of S188 requests and inform schools of when the 28 days formal consultation period will lapse.

17. No further action will be taken to select staff for compulsory displacement until:

- all the responses which have been received from the unions have been considered; or
- the 28 day period has elapsed without comment from the unions; or
- all the relevant unions have indicated that they do not wish to make representations or will not be responding.

18. This does not preclude further investigation of methods of avoiding compulsory displacement. **If at any point in the procedure it is decided that the Section 188 Notice might be withdrawn, it is important that the CLL HR Adviser be informed immediately.**

[Note: Where there is a volunteer or the reduction might be achievable through natural wastage, the Section 188 Notice remains in force as there will still be a reduction in staffing levels. It will be withdrawn where there is no longer a need to make any staffing reductions by whatever means.]

19.1 The head teacher will consider and respond in writing to comments and challenges made within the consultation period and queries raised by unions in response to the Section 188 notices, whether these comments are made in writing or at pre-arranged meetings.

19.2 Some unions have standard letters or questionnaires which they send to request further information. UNISON will require a list of names of all support staff in the group(s) identified for selection; it would save time if this information were forwarded to the CLL HR Unit to be circulated with the Section 188 Notice.

STAGE THREE – THE SELECTION AND DISMISSAL PROCESS

20. The purpose of the Selection Committee is to consider the staffing structure to establish criteria for achieving the reduction in staffing numbers and to select staff for dismissal. The consultation stage must be completed before the Selection Committee meets to consider the head teacher's proposals for achieving the staffing reduction. **The Selection Committee may need to meet on three occasions: it is recommended that all meetings be minuted;**

- a) to consider a proposed staffing structure and draft selection criteria, the outcome of the consultation process and any staff or union comments;
- b) to agree a new structure, to confirm selection criteria and to assign people to posts, thereby selecting staff for redundancy;
- c) to hear representations from any staff who are selected for redundancy and who elect to make representations to the Selection Committee. Five working days' notice of this meeting will be allowed.

21. At its first meeting, the Selection Committee will consider the proposed staffing structure and the essential requirements for each post. The Selection Committee will ensure that they consider all options and any representations by the head teacher or members of staff. The Selection Committee will then determine:

- a) whether the reduction can be achieved without compulsory selection through consideration of the following in the order specified:
 - i) consider any requests for a voluntary reduction in hours, or to hold a post carrying less responsibility, from employees within the vulnerable group; any such employees should have been encouraged to seek advice from their union;
 - ii) consider non-renewal of the contracts of any employees on fixed-term contracts of less than two years' continuous service with a Local Authority;
 - iii) consider requests for voluntary early retirement/redundancy/severance from employees;

Note:

- The request for volunteers should be published amongst **all** employees.
- Care must be taken when considering staff on fixed-term contracts; legislation gives them specific employment rights - see footnote at page nine.
- Where a choice has to be made between volunteers for early retirement, selection should be undertaken following the same criteria as for compulsory redundancy.
- Volunteers should be made aware that the County Council will not approve a voluntary redundancy where subsequent staffing changes at the school (e.g. resignation of another employee whose post the volunteer is suited to fill) make the redundancy unnecessary.

- b) whether any specific employee or groups of employees are no longer vulnerable to displacement;

c) **the criteria for selection of employees** in posts that remain vulnerable to displacement will be drafted; checklists and guidance are set out in **Appendix 6** (Teachers) and **Appendix 7** (Support Staff).

22. After its first meeting, the Selection Committee will seek the views of staff and their representatives on their provisional conclusions on these points. It is essential that up-to-date information is available on each member of staff caught up in the process against the criteria agreed for selection; to this end, it is recommended that **a selection criteria form** be completed by each person in the vulnerable group. It is recommended that the data provided by the completed forms be submitted to Governors in an anonymous way in order to promote fairness in selection. A sample form is provided at **Appendix 8**.

23. At its second meeting the Selection Committee will:

- a) consider responses from union representatives;
- b) confirm selection criteria;
- c) place employees not vulnerable to displacement into the appropriate post(s), including those on maternity leave;
- d) assign the remaining employees to posts according to how they meet the criteria for placement in these posts;
- e) determine compulsory redundancies.

24. The Chair of the Selection Committee and/or the head teacher will:

- a) inform each employee selected for displacement in person of the decision taken, without any undue delay and provide them with a copy of the booklet that outlines measures to assist displaced employees. A copy of this booklet can be found on the SLN and is available from your HR Adviser;
- b) inform them also of their right to make representations to the Selection Committee and of their separate right of appeal and associated notification requirements for each. [Where the employee does not wish to make representations, but does wish to appeal against the Selection Committee's decision, they will notify the Chair of the Appeals Committee in sufficient time to allow five days' calling notice for the Appeals Committee.];
- c) confirm this decision in writing, including an outline of the staffing structure to be adopted and the key reasons for selection see **Model Letter 1**. This and any covering letters to employees will be copied to the CLL HR Unit;
- d) immediately notify the HR Unit, CLL of the employee to be dismissed and include reasons for dismissal [if the employee is a school representative or other elected officer of a recognised union, the CLL HR Unit will notify the relevant County/Branch Secretary].

25. **At its third meeting, the Selection Committee will consider any representations. An employee selected for dismissal has the right to make representations to the Selection Committee and the right to be accompanied by a trade union or other representative at the representations meeting.** The employee will notify the head teacher within three working days of notification of their selection that (s)he wishes to make representations and five working days' notice of the meeting will be allowed. At this third meeting, the Selection Committee will consider such representations and will decide whether or not it wishes to confirm its decision. A model procedure for considering representations is set out at **Appendix 9**.

26. The CLL HR Unit, on behalf of the Local Authority and / or the school, and within a period of 14 days of notification of the Selection Committee's decision, will advise the employee in writing of:

a) the decision taken to dismiss on the grounds of redundancy and issue notice to terminate the employment contract; and

b) their separate right of appeal to the Appeals Committee.

N.B. should the school's circumstances change between the time of selection and the effective date of redundancy, it may be necessary to withdraw the notices of selection and redundancy. Examples would be where new income is identified or where another employee leaves whose post could be filled by the selected employee. It is important that employees be made aware of this. A standard letter withdrawing notice of selection is set out as **Model Letter 5**.

STAGE FOUR – THE APPEALS PROCESS

27. An employee selected for dismissal has the right to make an appeal against the decision of the Selection Committee and the right to be accompanied by a trades union or other representative at the appeal hearing.

28. If the employee wishes to exercise their right of appeal, (s)he must notify the Chair of the Appeals Committee within five school working days of the date of formal notification of the outcome of decisions reached at the representations meeting. If the employee has not exercised their right to make representations to the Selection Committee, they should notify the Chair of the Appeals Committee in sufficient time to allow five days' calling notice for the Appeals Committee.

29.1 A model procedure for considering appeals is attached as **Appendix 10. It is recommended that the meeting be minuted.**

29.2 The appellant should have at least five school working days' notice of the date of the appeals hearing.

29.3 All documentary evidence, including new evidence, must be circulated at least two school working days before the appeals hearing. The Appeals Committee will not consider new written information presented at the hearing. Advice concerning documents required at the meeting is given in **Appendix 12.**

30. At the conclusion of the meeting, having considered all of the evidence available, the Appeals Committee may:

a) uphold the decision to dismiss the employee - notice to terminate employment may already have been issued by the Corporate Director (CLL). The head teacher will inform their HR Adviser immediately of the decision of the Committee to enable the necessary checks to be undertaken to ensure the statutory timescales have been met ; or

b) reverse the decision of the Selection Committee to dismiss - in these cases the Chair of the Appeals Committee will give written reasons why the decision has been reversed to:

- the head teacher,
- the Chair of the Selection Committee, and
- the Corporate Director of CLL.

31. The Appellant and the Corporate Director, Children and Lifelong Learning will be notified of the decision of the Appeals Committee within five working days. The CLL HR Unit will send to the employee formal confirmation of the outcome of the appeal hearing.

32. If the employee does not appeal against the selection, the head teacher will notify the Corporate Director, Children and Lifelong Learning on the expiry of the five school working days allowed for making appeals.

STAGE FIVE – MEASURES TO ASSIST DISPLACED EMPLOYEES

33. Governors will consider all displaced employees (including volunteers) for suitable vacancies arising in the school, after the displacement decision has been taken and will allow, as required by law, time off work with pay to attend interviews for other jobs.

Note: Employment Tribunals considering unfair dismissal claims expect that attempts be made to find alternative work for redundant employees. As it is the Governors who have the power to decide on appointments at each school, the County Council's power to provide alternative work is limited. It cannot direct Governors to appoint particular candidates. Nevertheless, the County Council believes that, in order to maintain the morale of employees employed in schools, officers of the County Council and Governors should do everything possible to assist displaced employees to find other work. This involves a responsibility not only on those Governors who are faced with reducing budgets but also on those whose schools have vacancies. Where displaced staff express interest in vacant posts, prior consideration involves suspending other action on filling the posts until their applications have been considered.

34. For all employees who express a wish to seek an alternative post, support will be given by the CLL HR Unit. A booklet entitled 'What to do if your job is selected for redundancy' is available on the SLN.

**APPENDIX ONE – COUNTY COUNCIL FUNDING OF REDUNDANCY BENEFITS
TEACHING AND SUPPORT STAFF**

N.B. The County Council reserves the right to renegotiate these provisions in the light of its Standard Spending Assessment / finances.

1. Under local management, governing bodies have the power to determine, within statutory limits, the benefits payable to employees whose employment is terminated on grounds of redundancy. The County Council maintains a central fund to assist in meeting these payments and has determined the following levels of benefits.

2. The following arrangements apply at the time of printing (October 2008). It is necessary to check the current situation in case recent changes have been made:

a) TEACHING STAFF

i. **Where the teacher is aged under 50**, and has no access to pension benefits, the redundancy payment will be based on actual weekly salary (i.e. no cap at £350),

plus

Where the teacher is a member of the Teachers' Pension Scheme, the County Council will exercise its discretionary powers to pay a Compensation Lump Sum (CLS) of twice the amount of the redundancy payment - subject to a maximum of 70 weeks' pay (when aggregated with the redundancy payment)

ii. **Where the teacher is aged 50 and over**, and entitled to pension benefits (in accordance with the Teachers Pensions Regulations), added years **up to** a maximum of three years will be granted for all cases of redundancy irrespective of the reason why redundancy has occurred;

and

the redundancy payment will be capped at £350 per week (except where actual week salary is less than £350).

Note 1: Where a teacher is aged 50 and over and does not access pension benefits, the redundancy payment will be based on £350 per week only, **i.e. actual salary will not be payable.**

Note 2: Where a teacher is aged 50 and over the regulations provide a 40 year service limit for the purposes of this calculation (i.e. actual service years plus added years cannot exceed 40).

Note 3: No Compensation Lump Sum will be payable for teaching staff aged over 50.

Discretionary powers allow the County Council either to grant added years or to compensate teachers with a severance payment (Compensation Lump Sum). There is no requirement to pay both added years and Compensation Lump Sum. Where the discretionary powers are used to grant added years, the County Council will not pay a Compensation Lump Sum.

b) SUPPORT STAFF

Where an employee has entitlement to a statutory redundancy payment:

i. The County Council will exercise its discretion to base the redundancy payment on the employee's contractual pay rather than the statutory limit.

ii. Where the employee is a member of the Local Government Pension Scheme, pension benefits will be based on reckonable pension service for those aged 50 (subject to criteria contained within new LGPS Pension Regulations) **and** the County Council will also award:

1. lump sum compensation of twice the amount of the redundancy payment subject to a maximum of 70 weeks pay (when aggregated with the redundancy payment);
2. a period of augmented service within the LGPS (calculated in accordance with factors supplied by the Fund Actuary) that can be purchased by an amount of the value of the lump sum compensation that would otherwise be payable, subject to the service limits defined in the LGPS.

Note: Due to changes in the LGPS, the County Council no longer grants added years.

General Notes:

Please contact the HR Schools Consultancy Team if you require an estimate of redundancy benefits.

Support staff estimates will be calculated by the Pensions Services Team. Please note that at the busiest times of year, a request could take up to a month.

Note: Should the total of any compensation lump sum and redundancy payment exceed £30,000, the excess is subject to deduction of income tax at 40%.

Multiple posts – it is possible for an employee to be made redundant in one of a number of posts held within the school or authority. In such cases, redundancy payments are limited to the redundant post only and are calculated in accordance with continuous service in that post. With regard to teachers seeking to take premature retirement, the pension scheme stipulates that all employments must cease before benefits can be paid.

An employee is ineligible for a redundancy payment if, before the end of his or her employment, he/she receives an offer of a suitable comparable job with any employer listed in the Modification Order to start immediately or within four weeks of the end of the previous employment. Further information regarding the Modification Order can be viewed at www.opsi.gov.uk/si/si2003/20031964.htm. The HR Unit or the Pensions Services Section can also offer further advice on this matter.

**APPENDIX TWO – SENDING IN SECTION 188 NOTICES
MODEL MEMORANDUM**

[Note: all documents are available on the intranet and may be downloaded and printed]

TO: HR Adviser
Human Resource Unit
Schools Consultancy Team
Children and Lifelong Learning Service
Tipping Street
Stafford
ST16 2DH

It is important that the notice, including this front page, is sent to the HR Unit without delay. You can fax the notice to the HR Unit (fax no. 01785 278859) or post by 1st class post.

The HR Unit will acknowledge receipt of the notice via email to the 'head teacher@' address.

FROM: Chair of Governors

SCHOOL: Please ensure all details are provided and written clearly.

DATE:

**TRADE UNION & LABOUR RELATIONS (CONSOLIDATION)
ACT 1992: SECTION 188**

Please find attached a Section 188 notice setting out the details of proposed reductions in staffing levels at the above named school.

Employees have been consulted on the contents of this notice in accordance with the agreed code of practice on handling staffing reductions in schools.

I should be grateful if you would issue the relevant information to the County / Branch Secretaries of recognised trade unions on behalf of the County Council and of the Governing Body.

This page **must** be signed by the **Chair of Governors** and included with the s188 notice.

Signed _____
Chair of Governors

Note: The HR Advisers for your district areas are:

Tamworth/East Staffordshire	fiona.macfarlane@staffordshire.gov.uk
Stafford/South Staffordshire	lynn.lee@staffordshire.gov.uk
Cannock/Lichfield	laura.fidgett@staffordshire.gov.uk or lynsey.evans@staffordshire.gov.uk
Newcastle/Staffordshire Moorlands	ashleigh.logan@staffordshire.gov.uk

N.B. The memorandum and accompanying Section 188 Notice(s) may be faxed or posted but will be accepted by e-mail only if there are signatures on the memorandum and notice – unions have challenged the validity of unsigned documents as contrary to procedure. Incomplete or unsigned documents will be returned to the school and this could delay the process.

APPENDIX THREE – SECTION 188 NOTICE - TEACHERS

Name of School _____ DCFS Number _____

Address _____

Post Code _____ Telephone Number _____

Name of head teacher _____

Please note there are separate s188 notices for support staff and curriculum mismatch (teaching only).

It is proposed to:

- (i) reduce the number of teaching staff at the school; or
- (ii) dismiss teaching staff on permanent or temporary appointments as redundant, whether that be voluntary or compulsory or reduce the hours of one or more members of the teaching staff.

and this may necessitate the dismissal of one or more teachers on grounds of redundancy. The following information is provided under Section 188 of the Trade Union & Labour Relations (Consolidation) Act 1992.

a) The reason for the proposal is: _____

It is important that the reason for the reduction is communicated clearly to staff and the unions. Often reasons are linked to financial, N.O.R. or restructuring

This info is needed to get a clear picture of the overall % reduction within the school.

b) The total number of teachers currently employed at the school (including the head teacher) is _____ (the full time equivalent [FTE] of which is _____).

Full-time equivalent (FTE) e.g. 3 Teachers working 16.25hrs each equates to 1.5fte.

c) The reduction in the number of teachers to be employed is _____ (FTE)

d) Where employees are to be selected for compulsory displacement, the Staffordshire model selection procedure will be followed. As part of this, the Selection Committee may need to meet on three occasions. The proposed dates for meetings are:

- Selection 1 - to consider proposed staffing structure
- Selection 2 - to confirm selection criteria
- Selection 3 - to hear any representations from selected staff
- Appeal - to hear any appeal(s) against selection

These dates must be agreed prior to sending the s188 to the HR Unit. The form will not be processed without this info. Meetings cannot take place until after the 28-day formal consultation period.

e) The reduction and any consequential dismissals will take effect on _____

f) Redundancy benefits will be calculated in accordance with Appendix One of the code of practice on handling staffing reductions in schools. This will be reviewed if the County Council alters its arrangements for funding redundancy benefits for employees in schools.

There must be a gap of one week between meetings one and two.

It would be recommended that a gap of a week is also given between meetings two and three (representations)

A gap of at least two weeks would be advisable between representations and appeals meetings. This enables the employee to exercise his/her right to appeal within 5 school working days of the outcome of the decision reached at representations and 5 school working days' calling notice of the appeals meeting.

APPENDIX THREE, PAGE TWO

g) Any other information, including any options being pursued to avoid the need for compulsory displacement.

Options that should be considered to prevent compulsory displacement are outlined in the policy. It is considered best practice to pay careful consideration to those options.

Please indicate

h) A Section 188 Notice affecting support staff is also/is not being issued.

i) The Workload Agreement (Section 133 Education Act 2002 has been implemented to reduce teacher workload and to improve standards. The decision to reduce the number of teachers will not contravene this legislation.

I believe that the above gives the information required under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended by Statutory Instrument 1999 No. 1925. Any representations that you wish to make should be made to the head teacher at the school as soon as possible but in any event should be received within 28 calendar days of the date of this notice.

Example

Signed head teacher _____

Date _____

Please ensure the notice is signed and dated. **Unsigned notices will not be issued.**

APPENDIX FOUR – SECTION 188 NOTICE – TEACHERS – CURRICULUM MISMATCH

Name of School _____ DCFS Number _____
 Address _____
 Post Code _____ Telephone Number _____
 Name of head teacher _____

Please ensure all details are provided and written clearly.

It is proposed to dismiss teaching staff as redundant, **or** to reduce the hours of one or more members of the teaching staff (although there is to be no reduction in the total number of teaching staff employed) in order to correct a mismatch between the skills of the teaching staff and the needs of the curriculum.

This may necessitate the dismissal of one or more teachers on grounds of redundancy. The following information is provided under Section 188 of the Union & Labour Relations (Consolidation) Act 1992.

This info is needed to get a clear picture of the overall % reduction within the school.

a) The total number of teachers currently employed at the school is _____ (the full time equivalent [FTE] of which is _____).

Full-time equivalent (FTE) e.g. 3 Teachers working 16.25hrs each equates to 1.5fte.

b) The numbers of teachers in the curriculum areas affected are:

REDUCING AREA

INCREASING AREA

Teachers FTE

Teachers FTE

c) The number of teachers to be displaced is _____ (full time equivalent).

d) Where employees are to be selected for compulsory displacement, the Staffordshire model selection procedure will be followed. As part of this, the Selection Committee may need to meet on three occasions. The proposed dates for meetings are:

- Selection 1 - to consider proposed staffing structure
- Selection 2 - to confirm selection criteria
- Selection 3 – to hear any representations from selected staff
- Appeal - to hear any appeal(s) against selection

These dates must be agreed prior to sending the s188 to the HR Unit. The form will not be processed without this info. Meetings cannot take place until after the 28-day formal consultation period.

e) Any consequential dismissals will take effect on _____

APPENDIX FOUR, PAGE TWO

- f) Redundancy benefits will be calculated in accordance with appendix one of the code of practice on handling staffing reductions in schools. This will be reviewed if the County Council alters its arrangements for funding redundancy benefits for employees in schools.
- g) Background Information, including any options being pursued to avoid compulsory displacement.
- (i) Curriculum area where reduction required - details/reasons:

 - (ii) Curriculum area where additional/new skills required – details/reasons

 - (iii) Options to avoid compulsory displacement:
- h) A Section 188 Notice affecting support staff is also/is not being issued.

I believe that the above gives the information required under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended by Statutory Instrument 1999 No. 1925. Any representations that you wish to make should be made to the head teacher at the school as soon as possible but in any event should be received within 28 calendar days of the date of this notice.

Example

Signed head teacher _____

Date _____

Please ensure the notice is signed and dated. **Unsigned notices will not be issued.**

Note: Unsigned notices will **not** be issued.

APPENDIX FIVE – SECTION 188 NOTICE – SUPPORT STAFF

Name of School _____ DCFS Number _____

Address _____

Post Code _____ Telephone Number _____

Please note there are separate s188 notices for Teaching staff and curriculum mismatch (teaching only).

Name of head teacher _____

You must stipulate the group(s) of support staff that are affected by the s188. e.g. Admin, SAs, TAs, Caretaking, Technicians.

It is likely that there will be redundancies amongst the _____ staff at the establishment referred to above. The following information is provided under Section 188 of the Trade Union & Labour Relations (Consolidation) Act 1992.

a) The reason for the proposal is:

It is important that the reason for the reduction is communicated clearly to staff and the unions. Often reasons are linked to financial, N.O.R. or restructuring changes.

b) The total number of employees of the above description employed at the school is:

c) The number of employees to be displaced is:

Use full-time equivalent figures (FTE) e.g. 4 TAs – two work 32.5hrs and two work 16.25hrs each

d) The description of these employees is:

You must stipulate again the group(s) of support staff that are affected by the s188. e.g. Admin, SAs, TAs, Caretaking, Technicians.

e) Where employees are to be selected for compulsory displacement, the Staffordshire model selection procedure will be followed. As part of this, the Selection Committee may need to meet on three occasions. The proposed dates for meetings are:

- Selection 1 - to consider proposed staffing structure
- Selection 2 - to confirm selection criteria
- Selection 3 – to hear any representations from selected staff
- Appeal - to hear any appeal(s) against selection

These dates must be agreed prior to sending the s188 to the HR Unit. The form will not be processed without this info. Meetings cannot take place until after the 28-day formal consultation period.

f) Any consequential dismissals will take effect on _____

g) Redundancy benefits will be calculated in accordance with appendix one of the code of practice on handling staffing reductions in schools. This will be reviewed if the County Council alters its arrangements for funding redundancy benefits for employees in schools.

There must be a gap of one week between meetings one and two.

It would be recommended that a gap of a week is also given between meetings two and three (representations)

A gap of at least two weeks would be advisable between representations and appeals meetings. This enables the employee to exercise his/her right to appeal within 5 school working days of the outcome of the decision reached at representations and 5 school working days' calling notice of the appeals meeting.

h) The current staffing structure of the support posts affected is:

<u>Designation</u>	<u>Grade</u>	<u>Hours</u>	<u>Number of Posts</u>
--------------------	--------------	--------------	------------------------

You must identify **all** posts within the group of staff identified as being 'at risk', in your **current** structure. For example; if TA's are identified as the affected group of support staff, you should list all TA's, TA – SEN, HLTA's and Cover Supervisors. Remember it is a group of staff you are identifying in this list, not specific people.

A list of names of the current post holders is / is not enclosed with this Section 188 Notice (Note for head teachers – see paragraph 19.2 of the Code of Practice)

i) Any other information, including any options being pursued which will avoid the need for compulsory displacement.

Options that should be considered to prevent compulsory displacement are outlined in the policy. It is considered best practice to pay careful consideration to those options.

Unions will require a list of names of all support staff in the group(s) identified for selection; it would save time if this information were forwarded to the HR Unit to be circulated with the s188 notice.

j) Background Information

k) A Section 188 Notice affecting teaching staff is also/is not being issued.

Please indicate

I believe that the above gives the information required under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended by Statutory Instrument 1999 No. 1925. Any representations that you wish to make should be made to the head teacher at the school as soon as possible but in any event should be received within 28 calendar days of the date of this notice.

Signed head teacher _____

Date _____

Please ensure the notice is signed and dated. **Unsigned notices will not be issued.**

Note: Unsigned notices will **not** be issued.

APPENDIX SIX – CRITERIA FOR SELECTION – TEACHERS

1. The purpose of this code of practice indicates that it is supported by the unions. The unions do recognise that criteria are required for redundancy selection and that criteria must be objective. Unions also believe that it is the task of management to set these. **However, unions do not support collectively the criteria set out below.**

2. The intention is that the Selection Committee will go through the factors listed and consider what weight is to be attached to them. In any particular case some of the factors named may be unimportant; and others may be unhelpful in the sense that they do not assist a decision (e.g. the Physics Department has to lose a teacher; the choice lies between A and B, who both have second class degrees in physics and post graduate teaching certificates; the "formal qualifications" factor is therefore "unhelpful" in making a choice). It is essential that the school's employee records are up to date for the purpose of this exercise – **see paragraph 21(c) and Appendix 8.**

3. Factors that may be used

Factor		Notes
A	Curriculum	Curricular considerations will often be decisive, outweighing all other considerations.
i)	Knowledge	Normally, evidenced by knowledge of the subject, or work area.
ii)	Experience	This relates to experience of the area under consideration (which could include experience of a particular category or age range of pupils). Because of frequent curricular changes, and age discrimination legislation, it may be inappropriate to attach great weight to very long experience
iii)	Relevant qualifications and training	Most obviously: degrees, certificates in education, NVQs etc. In-service training relevant to the post.
iv)	Other external recognition	This might include, for example, membership of examination committees, lecturing at in-service courses.
v)	Curricular management	If a department is to be retained, the head of department will not normally be considered for selection.
B	Non-curricular responsibilities	The situation often arises that the curricular work done by two employees is of similar value, but one must be retained because of pastoral or managerial duties.

C	Personal factors	Personal factors cannot always be precisely quantified, but Selection Committees should not be afraid of attaching weight to them.
i)	Disciplinary record	This means a record of formal warnings or other current formal disciplinary action.
ii)	Sickness record	Generally, past sickness absence can be the best indicator of the future, although sickness records should be viewed with some caution and advice taken from the HR Unit, Children and Lifelong Learning, whenever this factor is to be taken into account. Little weight is likely to be attached to absences of a plainly non-recurrent nature, (e.g. broken leg). Under the Disability Discrimination Act 1995, it may be unlawful discrimination if a disabled person is dismissed on the basis that they have a greater level of sickness absence than other employees where this absence is disability related and the employer cannot show that dismissal is justifiable.
iii)	Competence warnings	This means current formal warnings under a performance review scheme/capability procedure.
D	Other factors relevant to the effective running of the school	This allows scope for additional factors that may be drawn to the attention of the Selection Committee by the head teacher or one of the employees' skills lists. It is emphasised that there is no obligation on the Committee to consider issues that are not positively raised.
E	Wider contribution to whole school	This is one of the criteria for all teachers to pass through the Threshold and to progress to the Upper Pay Spine.

4. Factors not to be used

A. Domestic circumstances: governors may be tempted to consider an employee's 'need' to remain in employment because of domestic circumstances and commitments. This is strongly discouraged because of the difficulty in obtaining valid information on all staff and the potential for making decisions that constitute unlawful discrimination.

B. Examination results: it is rarely possible to make statistically valid comparisons between examination results achieved by different employees.

C. Trades union duties and activities: the selection committee must take no account of any trade union duties or activities undertaken by an employee, as this would constitute unlawful discrimination.

5. Factors requiring care upon which advice should be sought from the C&LL HR Unit

A. Part-time employees: wherever possible, no part-time employee should be allocated increased hours if this will cause the compulsory displacement of another employee.

B. Employees with disabilities: the Disability Discrimination Act 1995 makes it clear that where there are employees who are disabled and there is a need to reduce the workforce, the particular position of disabled employees should be taken into account when considering whether or not to make those persons redundant.

C. Temporary staff: Under the provisions of the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations, an employee on a temporary contract has the right not to be treated less favourably than a permanent employee, unless there is a specific operational justification for this.

D. Pregnant employees and those on maternity leave: Advice should be sought from the CLL HR Unit where an employee under consideration of selection for displacement is pregnant or on maternity leave.

- Employees on maternity leave must be kept informed of redundancy proposals and of the progress of selection processes.
- An employee on maternity leave at the date a post becomes redundant is protected from selection for redundancy and must be offered a suitable post within the revised staffing structure in preference to any other employee who is similarly affected by the redundancy situation but who is not absent on maternity leave. However, she may volunteer for redundancy if she so wishes.
- An employee who is pregnant but who is not on maternity leave at the date the post becomes redundant is not protected from selection for redundancy. [Note: the regulations mention “maternity leave”, not “pregnancy” but Governors are advised to consult on individual circumstances where this might be a consideration.]

The CLL HR Unit will endeavour to gather examples of good practice regarding selection and will post these on the Staffordshire Learning Net.

APPENDIX SEVEN – CRITERIA FOR SELECTION – SUPPORT STAFF

The following criteria are considered relevant when considering support staff posts

A. Factors to be used

i)	Knowledge	Normally, evidenced by knowledge of the subject, or work area.
ii)	Experience	This relates to experience of the area under consideration. Having regard to age discrimination legislation, it may be inappropriate to attach great weight to very long experience.
iii)	Relevant qualifications and training	For example formal qualifications, NVQs etc. and in-service training relevant to the post.
iv)	Non-curricular responsibilities	For example, pastoral or managerial duties.
v)	Disciplinary record	This means a record of formal warnings or other current formal disciplinary action.
vi)	Sickness record	Generally, past sickness absence can be the best indicator of the future, although sickness records should be viewed with some caution and advice taken from the HR Unit, Children and Lifelong Learning, whenever this factor is to be taken into account. Little weight is likely to be attached to absences of a plainly non-recurrent nature, (e.g. broken leg). Under the Disability Discrimination Act 1995, it may be unlawful discrimination if a disabled person is dismissed on the basis that they have a greater level of sickness absence than other employees where this absence is disability related and the employer cannot show that dismissal is justifiable.
vii)	Competence warnings	This means current formal warnings under a performance review scheme/capability procedure.
viii)	Other factors relevant to the running of the school	This allows scope for additional factors that may be drawn to the attention of the Selection Committee by the head teacher or one of the employees' skills lists. It is emphasised that there is no obligation on the Committee to consider issues that are not positively raised.
ix)	Wider contribution to the whole school	

B. Factors not to be used

These are the same factors as listed in Appendix 6, with the exception of examination results.

C. Factors requiring care upon which advice should be sought from the C&LL HR Unit

These are the same as Appendix 6.

APPENDIX EIGHT – SELECTION CRITERIA PRO FORMA

This document is to be completed by employees who are identified as being in a vulnerable group regarding redundancy selection and returned to the head teacher, in time for the second meeting of the Selection Committee (date published on S188).

- If forms are not received in readiness for Selection Committee 2, they will not be taken into consideration.
- Your head teacher should have a record of your skills and experience. However, this could be out-of-date and may not be exhaustive. This is your opportunity to add to this record and ensure the information presented to Governors about you is accurate.

This document should be treated ‘in confidence’. The Committee of Governors will select against agreed criteria anonymously.

- **Section One – Criteria**

Criteria (Examples)	Employee Comments (Examples)
1 – Qualification(s) Essential: QTS status (Primary)	PGCE (01.08.90) Wolverhampton University
2 - Experience Essential: Recent Key Stage One and Two Experience & Special Educational Needs Co-ordinator	Over the last academic year I have acted as a Key Stage Three teacher, however, prior to this I have four continuous years' experience as a key stage two teacher.
3 – Training Essential: recent in service training relevant	<h1>Example</h1>
4 – Pastoral skills and responsibilities Essential:	
5 – Curricular Management: Experience of Key Stage 2 Literacy	I have been key stage 2 literacy co-ordinator at the school for six months covering maternity leave.

You should be aware of the criteria Governors will be using to make selection(s) but these are detailed below. Please provide any information you feel appropriate.

Criteria	Employee Comments
1	
2	
3	
4	

- **Section Two – Additional Information**

Information that Governors will require should be included above. However, this section should be used to add any further comments, which you think important and which are not covered by the above. This may include:

- **Professional Qualification(s)**

For teaching staff, this may include subjects taught (without formal qualification). Again please include age range and key stage level(s). If teaching staff, please include main and subsidiary subjects for which originally trained. Please also include age range and key stage level(s).

- **Experience(s)**

Please include details of relevant work experience, (including dates)

- **Knowledge**

- **Non curricular responsibilities**

- **Other external recognition (e.g. membership of examination committees/ lecturing)**

- **Wider contribution to the whole school**

- **Recent relevant training activities/ courses engaged in** (including dates & topics)

Please add any information on additional sheets if required.

Signature:

Date:

Name:

To be returned to the head teacher by _____.

**APPENDIX NINE – PROCEDURE AT REPRESENTATIONS
TO SELECTION COMMITTEE**

Normally, representations will be made to the full Selection Committee.
Exceptionally, the employee may make representations in writing.

Parties taking part

The identified Governors who constitute the Selection Committee, one of whom acts
as Chair of the selection Committee

The head teacher

The Appellant

The Appellant's representative

A representative of the Corporate Director of Children and Lifelong Learning, who
acts as Adviser to the Selection Committee (if required);

Suggested procedure for the meeting

1. Introduction by Chair and explanation of procedure
2. The Selection Committee or its representative(s) will confirm the reason for the
employee's selection.
3. The employee will state his/her case against selection and be able to ask
questions of the Selection Committee. ***The employee may be accompanied by a
representative who may speak on his/her behalf.***
4. The Selection Committee can seek clarification from the employee of any points
raised in their presentation.
5. Parties to retire, including the head teacher
6. Representative of the Corporate director (C&LL) remains to offer advice
7. Selection Committee consider the case
8. Parties are informed of the Committee's decision at the conclusion of the meeting
if possible and the decision is later confirmed in writing

OR

9. Parties are informed that a decision has not yet been reached and that they will be
informed within five working days.

This procedure may be varied by agreement of all the parties.

APPENDIX TEN – PROCEDURE AT APPEALS MEETING

Parties taking part

The identified Governors who constitute the Appeals Committee, one of whom acts as Chair of the Appeals Committee

A representative of the Corporate Directorate (CLL) who acts as Adviser to the Appeals Committee

Representative(s) of the Selection Committee

The head teacher

The Appellant

The Appellant's representative

Suggested procedure for hearing

1. Introduction by Chair: explanation of procedure.
2. Selection Committee representative – usually the Chair of the Committee (**NOT the head teacher**) should put the case for the selection of the appellant.
3. Appellant (or representative) may ask questions of the Selection Committee representative.
4. Appellant (or representative) should put case against the selection of the appellant.
5. Selection Committee representative may ask questions of appellant.
6. Committee may ask questions of the Selection Committee Representative and of the Appellant
7. head teacher to be invited to express his/her views if (s)he has not done so already.
8. Selection Committee representative to sum up case. *
9. Appellant (or representative) to sum up case. *
10. Parties to retire, including the head teacher.
11. Representative of the Corporate Director, Children and Lifelong Learning remains with the Appeals Committee to offer advice.
12. Appeals Committee to consider the case.
13. Parties are informed of their decision at the conclusion of the Appeal hearing if possible and then confirmed in writing in accordance with Stage 4 of the code of practice

OR

14. Parties are informed that a decision has not yet been reached and are informed in writing within five working days by the Committee.

*NOTE: No new evidence or material will be allowed at this stage. This procedure may be varied by agreement of all the parties.

APPENDIX ELEVEN – HEAD TEACHER’S RECORD OF CONSULTATIONS

(a) Name DCSF No.

(b) Group Size

	No. of employees (teachers or support staff)	FTE No.
(c) Staffing Establishment for 2008/2009	<input style="width: 50px; height: 20px;" type="text"/>	<input style="width: 50px; height: 20px;" type="text"/>
(d) Proposed Staffing Establishment for 2009/2010	<input style="width: 50px; height: 20px;" type="text"/>	<input style="width: 50px; height: 20px;" type="text"/>
(e) Employees surplus to establishment	<input style="width: 50px; height: 20px;" type="text"/>	<input style="width: 50px; height: 20px;" type="text"/>

IN THE SECTIONS BELOW NOTE THE DATES AND DETAILS OF ALL MEETINGS/ TELEPHONE DISCUSSIONS

ACTION (and paragraph number of Code)	DATE	NOTES
1. Preliminary consideration of reductions with Governing Body to determine revised staffing structure		<i>Any relevant documentation should be kept with this record.</i>
2. Staff/Union Meetings		
3. Issue of Section 188 Notice		
4. Consultation with school union representatives		

APPENDIX ELEVEN, PAGE TWO

5. Selection by Governors Selection Committee of employee(s) named below		
6. Notification to CLL and employee(s) of decision of Selection Committee (including date and outcome of Representations meeting where applicable) and notification of appeal rights and deadlines		
7. Decision of Governors' Appeals Committee		

ANY ADDITIONAL COMMENTS OF HEAD TEACHER:

Names of displaced employee(s):

**APPENDIX 12 – ADVICE REGARDING DOCUMENTS REQUIRED AT THE
REDUNDANCY APPEAL MEETING**

It is suggested that the following documents be numbered (with the exception of the RISE Document) and be placed in a folder for ease of reference:

- Contents
- RISE Document – especially the procedure for the meeting at Appendix 10
- Section 188 Notice
- Existing staff structure
- Proposed staff structure
- Comments and questions submitted in response to the proposed structure and the criteria for selection, together with the head teacher's responses
- Selection criteria agreed at the first meeting of the Selection Committee
- Amended / agreed staff structure and criteria for selection arising from the second meeting of the Selection Committee, where applicable
- Letter and enclosure(s) from the Chair of the Selection Committee to the displaced employee following the second meeting of the Selection Committee
- Letter from the Chair of the Selection Committee to the displaced employee following the Representations meeting of the Selection Committee, where applicable
- Notice letter from the Corporate Director of Children and Lifelong Learning
- Letter from employee indicating their wish to appeal and stating their grounds of appeal
- Any supporting documents relevant to the grounds of appeal
- Confirmation letter from the Chair of the Appeals Committee inviting the displaced employee to the meeting
- head teacher's record of consultations

Copies of this pack to be sent to:

- Each member of the Appeals Committee
- Appellant (two copies – one for them to pass to their representative)
- Chair of the Selection Committee
- Any other Governor who will represent the Selection Committee at the meeting
- head teacher
- C&LL Adviser to the Appeals Committee.

MODEL LETTER 1 – EMPLOYEE SELECTED FOR REDUNDANCY

To be completed by Chair of Selection Committee

To: Title: _____ Full name: _____
Home address: _____
SAP Pay Reference: 00 _____
Job Title: _____
Working hours: _____

Dear _____ Date: _____
Name of School: _____ DCSF No.: _____

Please note this
Model Letter
contains optional
paragraphs.

STAFFING REDUCTIONS

I write to advise you of a decision of the Selection Committee on held on ___ that your post of _____ be deleted from (or reduced from ___ of full time to _____) in the staffing establishment of the school with effect from ___.

A copy of the new staffing structure adopted by the Selection Committee is attached.

The key reasons for your selection were _____.

You have the right to make representations to the Selection Committee about your selection and the right to be accompanied by a trades union or other representative at the representations meeting. If you wish to exercise this right, you should notify the head teacher within three working days of notification of your selection. This notification should be in writing and should outline your reasons and grounds for challenging the decision. Arrangements have been made for the Selection Committee to meet on _____ to hear any representations.

Whether or not you make representations to the Selection Committee, you have a separate right of appeal to the Governing Body's Appeals Committee, which has decided to meet on _____ at ___ am/pm should this be required. If you do not make representations to the Selection Committee but do wish to appeal, you should notify the Chair of the Appeals Committee in sufficient time to allow five working days' calling notice for the Appeals Committee to be convened on the appointed date. This notification should be in writing and should outline your reasons and grounds for challenging the decision.

Irrespective of the outcome of any appeal, the Selection Committee's decision regarding redundancy may be subject to withdrawal or amendment if suitable alternative employment is found for you or if staffing changes prior to the date of redundancy make the redundancy of your post unnecessary.

I am able to offer you an alternative post of _____ at ___ hours per week (___% FTE). A copy of the job description and person specification is enclosed. You should let me know by _____ whether you wish to accept or reject this offer. Before you decide, you may wish to seek further advice about your eligibility for salary protection. Please refer to the 'Frequently Asked Questions' section of the 'What to do if your job is selected for redundancy' booklet regarding your eligibility for redundancy pay and benefits.

Code of practice on handling staffing reductions in
primary, secondary and special schools 2009 where
the power of dismissal has **not** been delegated to the head teacher

It is advisable for you to consult your union representative about this decision and to acquaint yourself with the provisions of the agreed code of practice on staffing reductions.

Enclosed for your information is a copy of the booklet entitled 'What to do if your job is selected for redundancy'. You are advised to read this and to complete and return the appropriate alternative employment statement if you wish to seek alternative employment.

Signed Chair of Selection Committee
Copy to Corporate Director of Children and Lifelong Learning
(for the attention of the HR Unit – Schools Consultancy Team)

Enclosures: New staffing structure
 Job description and person specification
 'What to do if your job is selected for redundancy' booklet

MODEL LETTER 2 – OUTCOME OF SELECTION – TO DISPLACED EMPLOYEE

To be completed by Chair of Selection Committee after representations meeting

To: Title: _____ Full name: _____
Home address: _____
SAP Pay Reference: 00 _____
Job Title: _____
Working hours: _____

Dear _____ Date: _____

Name of School _____ DCFS No.: _____

Staffing Reductions

I write to confirm the outcome of the Selection Committee meeting of (insert date), held to consider your representations, which you attended with your representative (insert name) – *only where appropriate*.

Having carefully considered the points that you/your representative raised the Selection Committee decided to uphold/reverse its original decision to select you for your displacement.

Where decision is upheld;

As you are aware, you have a separate right of appeal to the Governing Body's Appeal Committee, which has decided to meet on (_____ date) at (_____ am/pm). If you wish to exercise your right of appeal you must notify the Chair of the Appeals Committee within 5 school working days of receipt of this notification.

A copy of this letter will be sent today to the Corporate Director (Children and Lifelong Learning) who will write to you separately within the next two weeks giving you formal notice of dismissal on the grounds of redundancy.

Chair of the Selection Committee

**MODEL LETTER 3 – OUTCOME OF SELECTION - TO EMPLOYEES IN
VULNERABLE GROUP NOT SELECTED FOR DISPLACEMENT**

To be completed by Chair of Selection Committee after representations meeting

To: Title: _____ Full name: _____
Home address: _____
SAP Pay Reference: 00 _____
Job Title: _____
Working hours: _____

Dear _____ Date: _____

Name of School _____ DCSF No.: _____

Staffing Reductions

I write to confirm the decision of the Selection Committee that your post of _____ **will not** be deleted from the staffing establishment of the school.

I am pleased to inform you that you have been allocated a position in the new enclosed staffing structure which has been adopted by the Selection Committee.

Please be aware however, that the displaced member(s) of staff has/have a right of appeal against the decision not to place them in the staffing structure. Should they appeal successfully, the Selection Committee would be required to reconsider their decision and you would be notified accordingly.

Chair of the Selection Committee

Enclosure: New staffing structure

**MODEL LETTER 4 – CONFIRMATION OF ARRANGEMENTS FOR
APPEALS MEETING**

To be completed by Chair of Appeals Committee

To: Title: _____ Full name: _____
Home address: _____
SAP Pay Reference: 00 _____
Job Title: _____
Working hours: _____

Dear _____ Date: _____

Name of School _____ DCSF No.: _____

Staffing Reductions – Appeal Against Selection

I acknowledge receipt of your letter dated _____ stating your wish to appeal against your selection and stating your grounds of appeal.

I write to confirm that the appeal will be heard on _____ at _____.

Present at the appeal, in addition to yourself and/or your representative, will be:

Appeal Committee Members

I will chair the meeting and the other members of the Appeal Committee will be:

_____, Governor
_____, Governor

Representing the Selection Committee

_____, Chair of the Selection Committee
_____, Governor

head teacher

Representing the Corporate Director of Children & Lifelong Learning

_____, C&LL Adviser to the Selection Committee (if needed)
_____, C&LL Adviser to the Appeals Committee

If you intend to produce any evidence, including new evidence, this must be submitted to me, via the school, by no later than _____ to allow it to be circulated at least two working days before the date of the meeting.

You have the right to be accompanied at the meeting by your trade union or other representative or you may send a representative in your place.

Code of practice on handling staffing reductions in
primary, secondary and special schools 2009 where
the power of dismissal has **not** been delegated to the head teacher

Please confirm your receipt of this letter and attendance at the meeting by signing the attached copy letter and returning it in the envelope provided

Yours sincerely

Chair of the Appeals Committee

For copy letter only:

I acknowledge receipt of this letter and confirm that I will be attending the meeting scheduled on _____ at _____.

Signed _____

Print name _____

**MODEL LETTER 5 – CHANGE IN SCHOOL CIRCUMSTANCES AFFECTING
REDUNDANCY DECISION**

To be completed by Chair of Selection Committee

To: Title: _____ Full name: _____
Home address: _____
SAP Pay Reference: 00 _____
Job Title: _____
Working hours: _____

Dear _____ Date _____

Name of School: _____ DCSF No: _____

STAFFING REDUCTIONS – WITHDRAWAL OF SELECTION FOR REDUNDANCY

I refer to my letter of _____ which informed you of the selection of your post for redundancy.

The purpose of this letter is to advise you that I am withdrawing that letter and am instructing the Corporate Director of Children and Lifelong Learning to withdraw the notice of redundancy.

The reason for this is that, since the time of the Governors' decisions regarding redundancy, the school's circumstances have changed and we are able now to maintain your post or to offer you suitable alternative employment at the school as follows:

Details of post (designation, grade, working hours)

Where this is your existing post, you need do nothing. Where it represents an offer of an alternative post, you should confirm your acceptance of the offer to the head teacher, in writing, by _____. You should be aware that this is considered a suitable alternative and to refuse unreasonably to accept the offer could result in you losing the right to a redundancy payment.

Yours sincerely

Chair of Selection Committee
Copy to Corporate Director of Children and Lifelong Learning
(for the attention of the HR Unit – Schools Consultancy Team)

MODEL LETTER 6 – OUTCOME OF APPEAL – TO DISPLACED EMPLOYEE

To be completed by Chair of Appeal Committee after appeal meeting

To: Title: _____ Full name: _____
Home address: _____
SAP Pay Reference: 00 _____
Job Title: _____
Working hours: _____

Dear _____ Date: _____

Name of School _____ DCSF No: _____

STAFFING REDUCTIONS

I write to confirm the outcome of the Appeals Committee meeting held on
_____ to consider your appeal against selection for redundancy.

Having considered the evidence submitted by you and by the Selection Committee,
the decision of the Appeals Committee was that (*delete as appropriate*)

Either

the decision of the Selection Committee should be upheld and that the appeal is not
allowed.

Or

the decision of the Selection Committee should be reversed and that the Corporate
Director of Children and Lifelong Learning be instructed to withdraw the notice of
redundancy sent to you.

A copy of this letter is enclosed for your representative. Copies are being sent also to
the head teacher and the Corporate Director of Children and Lifelong Learning

Yours sincerely

Chair of Selection Committee
Copy to Corporate Director of Children and Lifelong Learning
(for the attention of the HR Unit – Schools Consultancy Team)