

SOLIHULL METROPOLITAN BOROUGH COUNCIL

# Management of Change Policy

## SCHOOLS VERSION

This policy sets out the terms of agreement reached by those participating in the Council's Consultation and Negotiating Framework.

**For School's (e.g. some Academies) not participating in the Council's Consultation and Negotiation Framework:** The school must undertake its own negotiation and consultation with the relevant Trade Union/Staff Association Representatives before this policy is adopted by the School Governing Body. Advice is available from your HR provider on how to undertake this, if required.

SMBC can provide information in a range of different ways, for example via the use of audio tape, summarising large documents, interpretation, translation and British Sign Language interpreting services.

If you require this information in an alternative format or need assistance because English is not your first language, please contact your line manager or nominated Human Resources Advisor in the first instance for further support.

## MANAGEMENT OF CHANGE POLICY

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Revision	Date	Revision description
4	July 2015	Update to Section 6: Consultation periods to reflect statutory requirements and consistent with other policies.
4.1	November 2020	Reference made to new Resolution process in Section 10 in place of the grievance process
5.0	July 2022	Refresh of policy and new toolkit.
5.1	September 2023	Redeployment Guidelines referenced and update to section 8:2 to include provision about protection from redundancy during, from when known or after pregnancy or after periods of maternity, adoption or shared parental leave.
5.2	February 2024	10.2 HR Business Manager will need to sign off all exercises to indicate processes and methods have been correctly followed. / 20.Updated EAP details / 12.1 extra line added to clarify pay protection
5.3	July 2024	Additional information added to section 12 on trial periods for employees with a disability. Section 8.2 updated to clarify additional protections for employees on family leave and appendix 2 added to state protection end periods.

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## **1. Purpose & Aim**

This policy aims to provide a clear process to follow when implementing change and ensure the changes are managed in a way that is fair, consistent, transparent and in line with statutory requirements and best practice. Change may be necessary for many reasons, for example to achieve savings or increase levels of efficiency following an alteration in the way services are provided. Employees will be kept appropriately informed and supported throughout the process.

## **2. Scope of Policy**

This policy applies to all Council employees including those on fixed term contracts and casual/zero-hours workers apart from employees under JNC terms and conditions. It excludes agency workers.

This policy has been developed in line with the following legislation:

- Trade Union and Labour Relations (Consolidation) Act (TULCRA) 1992
- The Employment Rights Act 1996
- The Maternity and Parental Leave etc. Regulations 1999
- The Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999
- Fixed Term Employee (Prevention of less Favourable treatment) Regulations 2002
- The Equality Act 2010
- School Staffing (England) (Amendment) Regulations 2012
- Employment Relations Act 2014
- Protection From Redundancy (Pregnancy and Family Leave) Act 2023

## **3. Key Principles**

- Employees and TUs will be provided with information about any proposed organisational change and the rationale behind it.
- SMBC/Schools/Academies will formally notify trade unions of any proposed organisational changes and will undertake consultation with them in line with legal obligations and the requirements set out in this policy.
- Employees will receive notice of any organisational change which may affect their employment. If due consultation is not carried out, any subsequent dismissal will almost certainly be unfair.
- Employees have the right to be accompanied by a trade union representative or work colleague at 1:1 or formal meetings to discuss organisational change. There should be a discussion with the HR Advisor to determine if it would be appropriate to allow an alternative companion to accommodate a reasonable adjustment in order to assist an employee with a disability.
- SMBC/Schools/Academies will consider all practicable steps to avoid compulsory redundancies. In such situations, consideration will be given beforehand to measures including, but not limited to, freezing external recruitment, temporarily ceasing any overtime arrangements, reviewing

agency contracts, offering voluntary redundancy, where appropriate, and allowing redeployment opportunities please see the Redeployment Guidelines for more information.

- Managers will follow the 5 stages of Organisation Design – Design Thinking for Structures to ensure not only statutory compliance but also the application of best practice. (Appendix 3)
- Employees will receive training and development as appropriate to meet new skill requirements and are also expected to collaborate with their manager in identifying and communicating any development needs.
- Employees are expected to engage actively in all aspects of the management of change process. Failure to do so may affect their eligibility for redundancy.
- Although it may be preferable to hold certain meetings or discuss sensitive situations face-to-face, under the Council's hybrid working practices any of the meetings referenced in this policy may take place in person or remotely via video conferencing, though audio or visual recordings of proceedings by the employee or their representative are not acceptable at any stage of the process.

#### **4. Roles & Responsibilities**

##### **4.1 Solihull Council Responsibilities:**

- Cabinet will approve the aims, objectives, finance, and outcomes for large-scale and significant organisational changes, for example, those requiring vast cost savings, in accordance with their duties and responsibilities.
- Corporate and Assistant Directors will drive forward organisational change by overseeing the planning, consultation and implementation of change in a transparent and positive way in accordance with the Council's brand.

##### **4.2 School Staffing (England) (Amendment) regulations 2012:**

Where redundancies are required the School Staffing (England) (Amendment) Regulations 2012 allow for initial dismissal decisions to be delegated to Headteachers. However, it also recommends that where Headteachers have a direct involvement in instigating proposals to dismiss, arrangements for delegating initial dismissal decisions will need to be considered on a "case by case" basis. Given that Headteachers will inevitably have direct involvement in implementing redundancy procedures, it would be the strong advice of the Council that dismissal on the grounds of redundancy should be undertaken by a Redundancy Committee. This should comprise a minimum of 3 Governors and the role of the Headteacher would then be to present the case and answer questions. The Appeal Committee should also comprise a minimum of 3 Governors. The number of Governors on the Appeals Committee should not be less than those on the Redundancy Committee. No Governor may be a member of both committees. It is mandatory that staff governors are not members of either panel in order to ensure fairness and complete impartiality. Where this policy refers to

Governors this should be interpreted as Trustees as per the School's/Academy's governance arrangements.

#### **4.3 Line Manager's Responsibilities:**

Within this document, the term 'line manager' may be used to refer to the manager, Head of Service or Headteacher leading a Management of Change exercise. Key responsibilities of line managers/Headteachers include:

- Leading and being empowered to implement change with a large degree of autonomy, subject to adhering to the appropriate policies and guidelines.
- Keeping employees up to date with progress, including communicating any difficulties foreseen in implementing the change. Being sensitive and responsive to the needs of the employees being managed through any change process and engage with appropriate support providers where appropriate (e.g. Occupational Health, Employee Assistance Programme, Careers Advisory Services).
- Evaluating the deliverable outcomes of the management of change process.

Additional key Headteacher responsibilities:

- Plan processes and ensure the Governing Body complies with procedure
- Advise the selection panel and lead the communication/consultation with the Director of Children's Services (or their Representative), HR Providers, Trade Unions and employees
- Advise the Redundancy Committee on selection criteria
- Advise the Redundancy Committee when it meets to apply the criteria and identify employees for potential redundancy
- At the redundancy meeting the Headteacher will present a statement of the case
- At appeal meetings, the Headteacher or the Chair of the Redundancy Committee will present the case to the Appeal Committee.

#### **4.4 School's Redundancy Committee**

The Chair of the Redundancy Committee along with the Headteacher, supported by an appropriate officer from Human Resources will facilitate change by overseeing the planning, consultation and implementation of change in a transparent and positive way.

The role of the Redundancy Committee will be to:

- Acknowledge and discuss the proposals set out by the Headteacher.
- Notify the Director of Children's Services (or their Representative), relevant Trade Unions and Human Resources Providers at the earliest opportunity of potential redundancies.
- Provide written notice to the recognised trade unions regardless of the number of employees it is proposed to make redundant, highlighting the potential numbers, the type of roles affected and by when this is proposed to take effect.

#### **4.5 Employees' Responsibilities:**

- Employees should play an active role during consultation, including discussions around proposals for a potential service redesign, the process of identifying new career opportunities and working with the manager to ensure the transition to change is completed as smoothly as possible.
- The employee, or any person acting on their behalf, is not permitted to covertly record any informal or formal meeting held by the Council. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal. This is on the basis that we expect employees to be open and honest and to treat colleagues with dignity and respect, and making secret recordings undermines trust between individuals. Anyone making such recordings in contravention of this would also be personally responsible for any breach of Data Protection legislation. There is a potential that the use of non-covert audio recording devices may be allowed as a reasonable adjustment to accommodate a health condition where previously deemed appropriate by Occupational Health or an employee's GP/Medical Practitioner; this will be with the express consent of everyone present.

#### **4.6 Human Resources Responsibilities:**

- Support and advise line managers/Directors, Governing Bodies and Head teachers.
- Maintain and review this policy.
- Support the consultation process, including consultation with Trade Unions.
- Support the development and implementation of selection arrangements.
- Provide support for displaced employees, which may include the provision of outplacement services.
- Support consultation meetings, such as 1:1s, when required.
- Ensure compliance with any statutory requirements including taking "due regard" to the three aims of the Public Sector Equality Duty in accordance with the Equality Act 2010.
- Provide training as appropriate to Line Managers and School Leaders

### **5. Approval for Change**

Corporate Director(s), the Chief Executive, Corporate Leadership Team (CLT) or an Assistant Director Group will approve reorganisations that simultaneously affect more than one Directorate or involve the ending or changing of an activity that impacts on another service area or external service users.

Directorate Leadership Team (DLT), the Director of Resources and Deputy Chief Executive or Assistant Directors can approve minor reorganisations not resulting in significant staffing changes - i.e. contained within a Service Area or Directorate. Heads of Service may authorise reorganisations where no cost implications are involved.

All proposed reorganisations must be funded from existing staffing budgets or an additional staffing budget approved by the Corporate Leadership Team (CLT) or

Cabinet (and ratified by full Council if necessary).

Where reorganisations involve redundancies the additional approval of the Director of Resources and Deputy Chief Executive will be required. If the gross cost (redundancy compensation and, if appropriate, the pension fund strain) of a redundancy is greater than the annual cost of the post) being deleted, the approval of the Remuneration Committee will also be required. If the reorganisation is Council-wide or the gross cost exceeds £100k the proposals will also need the approval of Full Council.

Where an employee leaves the Council through redundancy the business case will be based on a maximum payback period for the costs to be within 3 years, unless by exception and otherwise approved by the relevant Director and the Director of Resources. The payback period is calculated by comparing the total cost to the Council of the early leaver payments to the annual gross salary saved.

### **Approval for Change Within Schools:**

The School's Governing Body will approve the aims, objectives, financial proposals and outcomes for organisational changes/redundancies in accordance with their duties and responsibilities.

## **6. Equality Statement**

The Council is committed to promoting equality of opportunity and equality of access that is free from discrimination, prejudice, harm, stereotyping, harassment, victimisation, and any other form of discrimination. This commitment is in accordance with the Equality Act 2010 and within the Act there are specific duties for public bodies, referred to as the Public Sector Equality Duty (PSED).

The aims of the PSED are to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- advance equality of opportunity between people who share a relevant protected characteristic and people who do not
- foster good relations between people who share a relevant protected characteristic and people who do not

The Equality Act requires that we have 'due regard' for these three aims and consider the equality implications when making key decisions or changes. The process of considering these implications is referred to as an equality analysis. This term covers a range of approaches, though at SMBC it involves undertaking a Fair Treatment Assessment, which will be completed as part of the management of change initiative to ensure it meets the requirements of the Equality Act 2010. Its outcomes need to inform the final change process.

## **7. Design Phase**

Managers should contact their HR Business Manager before commencing any process in respect of change so that appropriate discussions can take place.



Organisational Design is crucial to ensuring the right structures are in place and the model below shows the areas that need to be discussed and considered prior to embarking on a change programme alongside the principles outlined in [Organisation Design - Design Thinking for Structures](#). Phases 1 to 4 relate to the Design steps:

Case for Change	Organisational Assessment	Designing the Structure	Implementation as a Change Initiative	Design Review
Business requirements	Design framework	Steps in determining the new organisation structure	Change overview	The benefits and importance of review
Key roles & responsibilities	Organisational assessment (data gathering)	Creating various high-level designs	The human response to change	Measuring organisational outcomes
ID sponsor	Organisation design trends		Transition and mitigate resistance	Measuring the alignment and tensions of the design
Develop the business case	Stakeholder analysis		Change readiness	
Decision to redesign	Communication plan Consultation strategy			

The manager should clearly identify what outcomes need to be achieved and the rationale for change to ensure transparency and openness throughout the process.

Employee engagement is key to the success of any change initiative and, following discussions with HR and OD, employees should be engaged at the earliest opportunity.

In addition, the manager should:

- Have a realistic implementation date in mind and work backwards to map out the different stages, identifying key processes, necessary approval routes, resources and roles and responsibilities.
- Plan in sufficient time to be allocated for the necessary internal and statutory processes (where applicable) e.g. collective and individual consultation.
- Scope out the detail of new posts and prepare new job descriptions/person specifications and arrange completion of the job evaluation process where there are new posts or there have been significant changes to existing posts.

- Identify if any potential roles are at risk of redundancy and establish the likely redundancy costs at an early stage in the process with particular attention to any pension fund strain implications for employees.
- Liaise with Equality and Diversity and HR in respect of a fair treatment assessment for the proposed changes, both from the service perspective and staffing implications
- Be clear on procedures for assimilation/ring fencing arrangements, competitive interviews and expressions of interest processes
- Seek to engage Trade Unions or Employee Representatives in preliminary discussions, stressing the need for confidentiality at this stage, and should continue to involve and communicate with them up to and including the conclusion of the formal process.

## **8. Consultation**

### **8:1 Collective / Formal Consultation**

The Council will consult with the full-time relevant trade unions in accordance with Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULCRA), where it is proposed to dismiss as redundant 20 or more employees at SMBC or a School/Academy over a period of 90 days or fewer.

- Minimum timescales will be observed:
  - at least 30 days before the first potential dismissal takes effect if 20 – 99 employees are to be made redundant
  - at least 45 days before the first potential dismissal takes effect if 100 or more employees are to be made redundant
- Formal consultation can commence when the proposals for change are disclosed in writing to affected employees and recognised trade unions.
- The consultation document needs to contain the following information:
  - Reasons for the proposals
  - Numbers and descriptions of employee job roles where there are proposals to confirm dismissals on the grounds of redundancy
  - Total number of employees employed by SMBC at the establishment
  - Proposed method of selecting the employees who may be made redundant
  - Proposed method of carrying out dismissals, including the time period over which the dismissals are to take effect
  - Method of calculating redundancy payments
  - Current 'as is' and proposed 'to be' structures
  - Details of agency workers – numbers and type of work they are doing

Consultation needs to be meaningful and genuine with a view to reaching agreement with the appropriate representatives. Proposals should explain the business rationale, but must still be at a formative stage, and there should be

openness towards duly and fully considering alternative suggestions. Consultation must consider ways of avoiding dismissals, reducing the number of employees to be dismissed and mitigate the consequences of a dismissal. For example consideration may be given to the possibility of voluntary redundancy, where appropriate. Sufficient information should be provided along with an adequate period of time in which to respond.

- An HR1 Form, Section 188 notice should be submitted to the Secretary of State at the Department for Business, Energy and Industrial Strategy, with a copy to the trade unions, before a notice of dismissal is issued.
- There is not a statutory minimum time period where redundancies involve fewer than 20 employees; however SMBC will normally allow at least 30 days' consultation because the period should be sufficient and meaningful, taking into account the nature of the proposals.
- Managers will also need to determine the impact of the changes on customers, colleagues and stakeholders outside of the immediate service area as well as the wider community, as there may be a need to also consult with them on the likely effects of the change(s) on service delivery.
- Details of consultation meetings should be agreed and notes of the meeting recorded. Employees whose employment may be 'at risk' should be provided with a letter outlining this possibility.
- Principles around meaningful consultation should also be followed in management of change programmes where a reorganisation will not result in any potential redundancies in order to enable a collaborative, harmonious approach to finding solutions to business issues. Managers reserve the right to make a final decision on how to manage their service areas, but employees who feel involved in the process are more likely to accept a need for change.

## **8:2 Individual Consultation**

An employee's wellbeing at work can be associated with the degree of autonomy and control they have over their role and how it is undertaken. Giving employees a voice and a role in how change is managed can maintain wellbeing.

Everyone directly affected by the proposals will be consulted with, i.e. employees within the affected area(s) and the relevant recognised Trade Unions.

Individual consultation should occur after a first group consultation meeting has been held. It is important to remember to consult meaningfully with any employee who is absent from work. It is necessary to offer each potentially affected employee an individual meeting to explain:

- how the proposed changes affect them
- the reasons for the proposed changes and selection pool which has been chosen.
- that their role is potentially at risk.
- the selection criteria and ways to avoid redundancies and/or mitigate consequences.

- when it is envisaged that the proposed redundancies will take effect.
- the amount of a potential redundancy payment if a redundancy were to be confirmed.
- The support provisions available.

The employee will be invited to comment and respond to the proposals and have the opportunity to request a further meeting.

Identification of being at risk of redundancy is not notice of redundancy.

If a redundancy situation arises when an employee is on maternity leave, adoption, paternity, parental, shared parental leave, carers breaks or short-term career breaks, they must be consulted alongside all other staff.

Employees who are at risk of redundancy while on maternity, adoption, or shared parental leave are entitled to be offered suitable alternative employment in preference to other employees. There is a "protected period" during which employees who have informed their manager that they are pregnant, or who are on maternity leave or who have recently returned from maternity leave, have the right to be offered any suitable alternative vacancy in a redundancy situation. A protected period also applies to employees on adoption leave and shared parental leave, as well as those who have recently returned from adoption leave or a continuous period of six weeks or more shared parental leave.

A table of protected periods that apply in each of these situations can be found in Appendix 2.

If an employee is selected for redundancy due to any of these reasons, then the dismissal will automatically be unfair, because in this situation they would be entitled to be placed into an available alternative post, if identified, regardless of the number of other employees in the ring-fence. If more than one employee who is at risk of redundancy whilst pregnant, on maternity, adoption, or shared parental leave fulfils at least 80% of the essential criteria, but there are not enough posts to secure assimilation, then a selection process may be necessary.

Managers need to ensure that employees who are absent due to long-term sickness receive the same level and quality of consultation as other employees.

The consultation may be conducted remotely, if appropriate. In this situation, the manager will ensure that the employee is aware in advance that the nature of the conversation is private in order to allow them time to find a confidential space to take the meeting. It is acceptable to conduct a meeting remotely if the employee has access to and is comfortable using the technology being adopted.

Employees on fixed term contracts cannot be treated any less favourably, however an employee will be excluded from consultation if their contractual end date occurs before any restructure proposals are due to take effect. These employees will be entitled to apply for vacant posts through the normal recruitment channels once they are advertised after ring-fenced selection has taken place.

### **8:3 End of Formal Consultation**

Full consideration will be given to all comments received from employees and trade unions and a decision will be made on the way forward. The manager administering the organisational change is not obliged to implement any alternative proposals offered if sound business reasons for not doing so can be demonstrated. A follow-up meeting may be held after a minimum period of at least two weeks. A written response should be circulated to the trade unions and all affected employees outlining the changes coming into effect and the implementation process that will be applied.

## **9. Voluntary Redundancy**

Voluntary redundancy may be offered as a means of limiting or mitigating compulsory redundancy, for example inviting and approving voluntary redundancy applications in situations where there are more employees than jobs available in a ring-fence situation. Other relevant factors that determine whether or not a request for voluntary redundancy can be granted include, but are not restricted to, the level of specialist skills and knowledge that needs to be replaced and the total redundancy cost (including the pension cost, if applicable).

The manager is not obliged to consider further voluntary redundancy applications once the limit has been reached for the number required. However, the manager could meet employees on a one-to-one basis to ascertain whether they still wish to pursue this option.

## **10. Changes in Staffing Arrangements**

Where, as a result of the agreed changes, roles have significantly changed in responsibility, it is usual practice for the current posts to be deleted from the establishment and new jobs created with revised job descriptions and person specifications. This process will be the subject of continued consultation with the Trade Unions. Such posts will be subject to a job evaluation exercise and in these circumstances the opportunity should also be taken to review:

- Atypical/ unsocial hours increment
- Shift patterns
- Working practices
- Any other allowances

Posts should not, however, be deleted when there are only small changes to working practices which do not change the overall nature of the role or can be covered within the general flexibility of the job description, i.e. the introduction of new technology into working practices, changing systems etc.

### **10.1 The Selection Process**

Where it is determined that changes in posts and staffing levels should be made, it will first be necessary to determine which posts and employees are affected.

### **10.2 Ring fencing/Assimilation Process**

The appointment to all posts within the new structure will be initially subject to “ring fence” and/or “assimilation” arrangements where applicable. Where possible, the

concentration of potential job losses should not focus on only one group or type of employees (for example, just lower graded posts).

The ring-fencing exercise establishes the closest possible match between current postholders to new roles in the 'to be' structure. 'Ring fencing' confines applications to posts where existing employees are directly affected by the changes and, specifically, whose jobs may potentially be at risk. The principles applied to determine a ring-fence include comparing the employee's current job description, person specification and grade to posts in the new structure that could be considered appropriate. During a ring-fencing matching exercise, the primary focus is laid on the role and not an individual postholder and their specific skills and abilities.

If a higher graded post – at one grade higher - is proposed that encompasses the duties of a current lower-graded role but additionally contains responsibilities justifying a higher grade, it should be ring-fenced to existing postholders, who should subsequently undergo a formal selection process.

If a lower-graded role – at one grade lower - is available in the new structure that is broadly comparable to the employee's current role, the employee may be ring-fenced to the position if they accept it potentially comprises a suitable alternative and if an employee within the respective lower grade could not be ring-fenced or considered initially. If the employee is not in agreement, they would not be precluded from applying for voluntary redundancy.

Once the selection process is complete, employees who are not appointed within their own ring fence may apply for posts at a lower level after employees at that grade have been assessed or, in accordance with the normal recruitment process, be considered for any unfilled vacancies elsewhere in the service area.

In a restructured service containing a group of potentially 'at risk employees', assimilation is a process whereby an employee can be transferred into a new post because this matches their substantive role very closely. Assimilation allows for posts to be offered to postholder/s without a competitive or formal selection process where there is the same number of posts available or more; at least an 80% match in duties; no significant amendment to the nature of the post; and no grading change. This can be illustrated by reviewing the job description and person specification.

Assimilation would not be acceptable if:

- a new post is evidently different, requiring a possible grade change following a job evaluation exercise;
- the number of posts in the current structure exceeds the proposed number in the 'to be' structure; and
- where necessary developmental needs are significant and cannot be fulfilled within a reasonable timeframe.

An employee will be considered at risk if they cannot be assimilated.

The Directorate Leadership Team (DLT) (or Corporate Leadership Team if Council wide) supported by HR, shall agree which posts are considered 80% compatible with posts in the new structure. (using the Assimilation flowchart and the Assimilation guidelines and form in the managers' toolkit).

The Trade Unions will be consulted regarding posts that are identified as being 80% compatible and any proposed ring-fencing arrangements.

Once the 80% compatible posts have been agreed employees should be invited to apply for posts within their ring-fence. Applications should be submitted in a consistent format i.e. by completing a Preference form (a shortened version of the application form) and should be assessed in accordance with the Recruitment and Selection Policy.

Employees must go through a formal selection process to secure any promotional opportunity that emerges as a result of the restructure.

If the Council proposes to stop providing a service, assimilation and ring fencing will not apply since all the employees will potentially be redundant. The redeployment process would then be applied after it has been confirmed following due consultation that a service area is to be disbanded (see Section 11).

### **10.3 Selection Process for Reduction in Employee Numbers**

Where management of change proposals result potentially in a lower number of job roles, it will be necessary to agree an appropriate selection process. The selection criteria should be fair, objective, measurable and non-discriminatory. The selection criteria used should not discriminate against staff on the grounds of any protected characteristic under the Equality Act 2010 or because of an employee's part-time or fixed-term employment status.

As this process could potentially constitute a redundancy selection exercise, advice and agreement must be sought from the HR Advisor to ensure the process used is robust and evidence based.

The line manager, supported by a HR Advisor, will consult with recognised Trade Union representatives regarding the precise selection criteria and is responsible for making the final decision.

The selection criteria will be dependent on the service area's/school's future needs and the skills, experience and behaviours of employees it needs to retain to deliver them. The selection process should consider factors including but not limited to:

- Past performance (PDR scores)
- Critical skills for the new/remaining post
- Experience and knowledge
- Essential qualifications needed to perform the role
- Attendance
- Conduct

Length of service, and sickness absence due to pregnancy, a long-term medical condition or disability cannot be used as selection criteria because considering these aspects could amount to discrimination.

The HR Advisor will assist the line manager in choosing the most appropriate method(s) of selection for the circumstances.

Methods of selection include:



### **10.3.1 Selection Matrix**

A selection matrix is a score sheet that attaches a certain weight and score to each criterion. The matrix gives each employee being considered for redundancy a final score on which the redundancy decision is based. When all the scores have been worked out, the employee/s with the lowest scores will be provisionally selected for redundancy. An example of a selection matrix can be found in the manager's toolkit.

This method can be utilised when the employees affected are all doing the same job but there is a lower proposed number in the new structure. The panel will consist of at least 2 people including the manager leading on the restructure and a representative from HR to reduce the risk of bias or discrimination. The manager will have overall responsibility for the final decision.

Employees should be informed of the agreed criteria and scoring method from an early stage. It is also good practice for all employees being assessed to self-score themselves using the matrix and discuss these scores with the manager. It is important that employees are given a copy of their scores from the panel and given the opportunity to comment on them and challenge the basis on which the score has been reached before a final decision is made.

In the event of a tie after this process, selection will be based on the employee with the lowest number of points for the most highly weighted factor in the redundancy selection matrix or a competency-based interview, if appropriate.

### **10.3.2. Interviews/Preference forms**

Interviews can be used as a selection method to allow employees to demonstrate their ability for new/remaining posts as defined in the job description and person specification. If interviews are the only tool for selection, a competency-based interview should be the agreed assessment mechanism because of the strong evidence that can be obtained by focussing on specific aspects of an employee's skills and experience.

Managers should consider that some employees may feel disadvantaged by this method of selection alone if they have no recent experience of a competitive recruitment process. Support or coaching can be offered to any employees who have concerns about the process. HR will be able to advise on the support available.

In order to ensure all of the relevant information has been captured and taken into account, the ring-fenced employees should be invited to complete a Preference form (a shortened version of the application form) to detail how they meet the essential criteria for the role in the new structure as this will form the basis of any appointment. The desirable criteria should also be addressed to identify any potential developmental needs that may need to be considered if the employee is successful. An interview panel can then be arranged to assess the candidate with a designated panel Chair nominated to oversee the proceedings.

### **10.3.3 Skills Assessments / Assessment Centres**

In other situations, occupational testing and skills assessments may also be appropriate if the skills to be tested are essential to the new posts. In taking this



approach, the range of exercises used must always be appropriate to the level and complexity of the post in question and reflect the nature of the work carried out. Advice on appropriate testing can be obtained from the HR Advisor and the HR Resourcing team.

An assessment centre is the name commonly given to a selection process that involves one or more exercises and can include an interview, presentation, psychometric assessment, stakeholder group exercise or other appropriate exercises to test essential skills, knowledge and experience. The assessment centre should be constructed around the criteria set out in the person specification and should ensure the tasks are mapped against the job description. It is important, therefore, that the criteria set out in the person specification are measurable.

If an employee has been selected for redundancy following a competitive selection process, they should initially obtain formal feedback from the Chair. If they feel they have been unfairly selected for redundancy, they can formally appeal against the decision within five working days.

Any vacant posts resulting from the restructure will be advertised to redeployees and, following this, internally, where employees who have secured posts will be able to apply for other roles within the team. If an employee is deemed 'at risk' after a ring-fenced selection process and an employee who was successful within the same ring-fence leaves their post, it may be appropriate to place the employee into the vacant position in order to mitigate compulsory redundancy.

Following the outcome of the selection process, the employees selected for redundancy will be informed accordingly and notified in writing. Arrangements will be made to serve contractual notice formally in a meeting and three months' access to the Redeployment Register will be offered, though there may be situations where it is necessary to give notice of redundancy in accordance with the contract of employment following the end of a formal period of consultation.

An employee may remain on the Redeployment register for three months. Where an employee's contractual notice is for less than this period, access to the redeployment register can continue beyond the termination date until three months have passed.

#### **10:4 Staff Increases**

Where a service area is authorised to increase its overall numbers the existing employees in that service area should be given the opportunity to express an interest in the new posts once any potential redeployees in the service area have been considered.

Where any appointment under this exercise involves a promotion, the employee must go through a formal selection process in line with the Council's Recruitment and Selection Policy. All remaining vacancies should also be filled in accordance with the Recruitment and Selection Policy.

### **11. Implementation Phase**

Phase 4 of Organisation Design is Implementation. Managers need to consider not only how to put the new structure and ways of working into place but also the support,

development or advice employees need to adapt to the new requirements. Keeping the team engaged and motivated is crucial to the success of the implementation.

Once the proposals have been finalised and agreed, the changes need to be implemented, with due consideration given to the transition that employees need to make. Line managers are required to produce an implementation project plan with timescales which should be developed and agreed with HR. The Fair Treatment Assessment should be finalised at this stage. There will continue to be communication with the affected employees and Trade Unions through the implementation stage.

It is important to maintain ongoing communication with all employees to ensure their welfare and their engagement. In this stage the manager should:

- Ensure the team understands the purpose of the service and how services are to be delivered;
- Have ongoing conversations regarding the skills, knowledge and support required to inform employees' Personal Development Plans;
- Explore team members' issues and concerns and offer potential remedies, where necessary signposting employees to additional support e.g. Employee Assistance Programme;
- Understand what information people (both inside and outside the team) need and when; and
- Gather feedback on the effectiveness of the changes from all stakeholders

## **12. Redeployment & Suitable Alternative Employment**

In order to minimise the possibility of redundancy, all at risk employees will be offered the opportunity to join to the Council's Redeployment register for three months. This process aims to secure employees suitable alternative employment within the Council.

A promotional opportunity would not ordinarily be available through the Redeployment process, however consideration and flexibility should be given towards employees with a disability to identify and accommodate any possible reasonable adjustments. This may involve, where appropriate, affording an employee with a disability the opportunity to apply for a vacant post on the Redeployment register one grade above their substantive grade.

Employees will be supported by a designated HR Advisor throughout the time they are managed through the Redeployment process. During this time, they will have access to all current vacancies within the Council and where appropriate will be afforded 'priority' access to suitable vacancies.

In some cases, employment may be subject to a trial period in any alternative role accepted via Redeployment to ascertain if the work constitutes suitable alternative employment. The trial period will normally be for 4 weeks in accordance with the Employment Rights Act 1996. It can be extended for up to 12 weeks for the purposes of retraining only if both the manager and employee agree and the manager believes any skills gaps can be overcome within a reasonable timeframe. Managers will need to consider accommodating reasonable adjustments wherever possible to support an

employee with a disability. If an employee requires such support during a trial period, they must discuss their situation with the recruiting manager.

A dismissal could be deemed unfair if suitable alternative employment is not offered to an employee. However, the availability of such an opportunity will depend upon the prevailing circumstances at the time. The Council is under no obligation to specifically create any employment, therefore a guarantee of securing suitable alternative employment cannot be made.

If the position results in a change of work location, employees will be reimbursed with any additional travelling costs they incur for a period of 2 years. (Please see appendix 1.) Employees will have only one contractual work base. Employees are not eligible to claim travel between home and a work location as an expense even when the employee works at home as part of a hybrid pattern.

Please refer to the Redeployment guidelines and FAQ's for further information.

### **12:1 Pay Protection**

Employees who accept an appointment to a post that is one grade lower during a restructuring exercise may be eligible for limited salary protection. Protection will be offered on the basis of freezing the employee's existing pay point until either the salary of the new post exceeds the actual earnings or for a period of 2 years; whichever is the shortest time. This includes not receiving any pay awards or salary increases while the salary is frozen.

Salary protection is effective from the date of appointment into the new role (i.e. at the start of the trial period). If the employee moves to a post of the same grade during the 2 years pay protection period, the protection will only continue until the end of the two years or if the salary of the post exceeds actual earnings. For teachers the period of pay protection known as salary safeguarding is for a period of 3 years.

Employees who reject offers of suitable employment during the Management of Change process cannot thereafter be guaranteed salary protection. There will also be an expectation that employees who are afforded salary protection will make all reasonable efforts to seek employment on grades equivalent to their protected salary level. In the event that there is a need to put in place salary protection arrangements advice should be sought from HR to ensure that there are no equal pay implications. Schools will consider measures relevant to salary safeguarding for teaching staff on a case-by-case basis.

### **12:2 Refusal of employment**

If a suitable offer of alternative employment is made and is refused by the employee without a valid reason, the Council will be under no obligation to make a redundancy payment. A suitable alternative role will take into account the scope of change in duties, pay, grade, location, hours of work etc., though an employee's personal circumstances may be taken into consideration when determining whether a refusal could be reasonable. HR will provide guidance regarding positions that would constitute suitable alternative employment. If the redundancy payment is refused the employee can appeal to explain why they consider the post offered does not constitute a suitable alternative.

### **13. Redundancy**

Any employee displaced following the management of change process will remain in a potential redundancy situation and be given:

- Notice of redundancy - employee(s) should be given the appropriate contractual period of notice with a view to terminating their contract of employment on the grounds of redundancy if suitable alternative employment cannot be found.
- An estimate of their redundancy compensation and any superannuation benefits, if applicable.
- Full pay during their notice period (even if pay would otherwise be lost e.g. through sickness)

A notice of dismissal cannot be issued until collective and individual consultation has concluded. A dismissal cannot take effect until the notice period has been honoured.

A redundant post that has been confirmed as obsolete will be deleted from the departmental structure and should not be re-established.

#### **13:1 Pay in lieu of Notice (PILON)**

If the employee receives a payment in lieu of notice, the employee's final date of employment will be regarded as the date on which they leave the authority. Annual leave entitlement will be calculated up to the final date of employment. However, the redundancy payment may need to be recalculated depending upon the amount of notice the employee would otherwise have been entitled to had a PILON not been arranged. A PILON will only be agreed following the approval of the Assistant Director in support of a strong business case. Please speak to your HR Advisor for further information if necessary

#### **13:2 Support for Employees**

This support will vary according to the particular needs of the employee, and each employee may receive support from the OD team to assist them while they are redeployees; this support could include all or some the following;

- Preparing to make a job application
- Preparing to attend an interview
- Interview coaching
- Obtaining interview feedback

Employees will be entitled to reasonable time-off to find alternative employment, such as attending interviews, whilst on the redeployment register.

### **14. Appeals**

An employee can appeal against compulsory redundancy if they believe they were unfairly selected or if they believe SMBC did not follow a fair redundancy process.

An employee can appeal within 5 working days from when the decision was communicated to them. The employee should submit their grounds of appeal in writing and email it to the Head of HR, Adrian Cattell, at [acattell@solihull.gov.uk](mailto:acattell@solihull.gov.uk). Appeals from school-based employees should be directed to the Chair of Governors.

The general principles related to the appeal process are as follows:

- Employees may be accompanied by a trade union representative or a work colleague.
- There will be an opportunity to set out why they consider that the decision made was wrong.
- There will be an opportunity for the manager to set out the reasons for the decision.
- There will be an opportunity for the appeal chair to ask questions both to the manager and employee in order to seek clarification
- The appeal chair will adjourn to reach a decision which will be communicated in writing within five working days.

Appeals will be heard by the appropriate Director/Chair of Governors within 10 working days of receiving the appeal. The decision of the appeal will be final and there will be no further internal opportunity for recourse.

## **15. Ongoing Minor Changes**

In order to adapt to changing requirements it is likely SMBC will need to make periodic changes to roles and responsibilities i.e. changes to job descriptions for greater flexibility or the introduction of new technology into working practices and changing systems.

Employees are expected to accept reasonable changes appropriate to the level of the post. Changes will be discussed with employees who will be given the opportunity to state their views. Affected employees will be given reasonable notice and supported as far as is practical to adapt to the new way of working, without going through a management of change process.

## **16. Alternative Employment with SMBC**

If you have taken redundancy without a pension you will not be able to re-join SMBC or work as an agency worker for SMBC for a period of at least twelve months.

If you have taken redundancy with a pension payment you will not be able to re-join SMBC or work as an agency worker for SMBC for a period of two years.

## **17. Modification Order**

If an employee is under notice of redundancy and receives an offer of employment from another body listed in Part 11 of Schedule 2 of the Modification Order before the dismissal takes effect, they will lose the entitlement to a redundancy payment if the new contract starts within 4 weeks of the end of employment with SMBC. Where the termination day is Friday or over a weekend the contract is treated as ending on the following Monday.

In these circumstances the employee's service will not be broken for redundancy pay purposes.

## **18. The Transfer of Undertakings (Protection of Employment) 2006 (TUPE)**

In service provision transfers TUPE regulations apply in the following situations:

- a contractor takes over activities from a client (known as outsourcing).
- a new contractor takes over activities from another contractor (known as re-tendering).
- a client takes over activities from a contractor (known as insourcing).

This policy will not apply to TUPE situations. This will be subject to separate consultations between Solihull Council, Trade Unions and the employees concerned. Please speak to your HR Advisor if you have a potential TUPE situation as soon as possible.

## **19. Post Implementation Phase**

The final stage of Organisation Design is Design Review, which evaluates the success of the change from the viewpoint of stakeholders, for example customers, employees, councillors and partners.

Managers will need to use all evidence and data to measure current performance against the success criteria established in the Case for Change and past performance prior to the change.

Consideration must be given to:

- What feedback will add value?
- What is the most effective way to gather feedback from stakeholders e.g. websites, social media, questionnaires, face to face.
- What changes, if any, are required?

## **20. Information and Support**

- Employee Assistance Programme

SMBC offers all employees access to the Employee Assistance Programme (EAP). This is an employee benefit designed to help employees to deal with personal and professional problems which could be affecting their home or work life, health or general wellbeing. The programme is run by an organisation called Health Assured.

This is a confidential facility that will provide information, expert advice and structured counselling by telephone 24 hours a day, 7 days a week. The service gives employees a place to turn to for support any time of day or night, 365 days a year.

To use the confidential service employees can contact the freephone number **0800 028 0199**, or via the live web chat facility or request a call back via the website: [Wisdom \(healthassured.org\)](https://www.healthassured.org). You will need to create a new account with an email address and password of your choice.

The EAP helpline is also available to line managers to offer support when dealing with challenging managerial situations. Their advisors do not advise on HR policies and procedures but can provide a facilitative and supportive space to help assist them with complicated or difficult issues. Some managers may want to rehearse a conversation, talk through how their own issues are impinging on a work problem or voice concern about their ability or confidence to manage a workplace conflict or difficulty. To use the service, managers can contact the freephone number **0800 028 0199**.

- Trade unions - if you are a trade union member, you can seek help and guidance from your trade union representative.
- ACAS <https://www.acas.org.uk/helpline> or call 0300 123 1100

**(Academies not using this EAP Service may wish to insert the details of their EAP here.)**

## Appendix 1

### SOLIHULL METROPOLITAN BOROUGH COUNCIL

#### COMPULSORY PERMANENT TRANSFER- EXCESS TRAVEL COSTS

Employees who are required by the Council to permanently transfer from their existing work location to another work location will be reimbursed with the additional travelling costs they incur. These expenses will be reimbursed on the following basis:

- The difference in expenses an employee incurs between travelling to their existing work location and the expenses they incur travelling to the new work location.
- Employees will normally be reimbursed with the additional expenses of using public transport, this will be at standard class rates.
- Where public transport is not available or is not feasible and a vehicle is used, an employee will be entitled to claim the additional mileage incurred using current casual mileage rates. Use of a privately owned car for Council/School business must be used in accordance with the Council's Driving at Work Policy.
- Mileage will be paid at the usual casual car user rate unless the employee has protected casual car user status\* which has an enhanced rate.  
(\*Employees who began working for SMBC before 01/10/2011)
- All claims will be subject to authorisation by the employee's manager.
- The expenses will be paid for a period of two years.
- The expenses are subject to tax and National Insurance.
- There will be no reimbursement of any car parking fees an employee may incur as a result of the transfer.

Following an employee being transferred to a new location they will receive confirmation of the start and end dates for claiming these expenses.

All travel and subsistence claims should be submitted for payment the month following and no later than 3 months of the expense being incurred. In exceptional circumstance late claims may be allowed (e.g. long-term absence) and will require authorisation by the Assistant Director/Head of Service/Headteacher.



**Appendix 2**

**Redundancy protection: pregnancy and family leave - protected periods (from 6 April 2024)**

Who is protected	The protected period
<b>Pregnancy - employee informs employer of pregnancy on or after 6 April 2024</b>	
Employee who is pregnant but has not yet begun their maternity leave.	The protected period starts on the date on which the employee informs the employer that they are pregnant.
Employee who is pregnant and suffers a miscarriage (before 24 weeks of pregnancy).	<p>The protected period starts on the date on which the employee informs the employer that they are pregnant.</p> <p>The protected period ends two weeks after the miscarriage occurs.</p> <p>(Where a child is stillborn (after 24 weeks of pregnancy), the employee qualifies for maternity leave and is entitled to the protected period set out below - see Maternity leave)</p>
<b>Maternity leave - leave ends on or after 6 April 2024</b>	
Employee who is on maternity leave.	<p>The protected period continues, having started on the date on which the employee informed the employer of their pregnancy.</p> <p>The protected period lasts for 18 months after the child's date of birth, or if the employee has not told the employer the date of birth, 18 months from the first day of the expected week of childbirth.</p> <p>This means that the protected period continues for the duration of the employee's maternity leave and for a period beyond.</p>

<p>Employee who has returned from maternity leave.</p>	<p>The protected period lasts for 18 months after the child's date of birth, or if the employee has not told the employer the date of birth, 18 months from the first day of the expected week of childbirth.</p> <p>For example, an employee who starts their maternity leave shortly before their expected week of childbirth and takes their full maternity leave entitlement would be protected for around six months after their return to work.</p>
<p><b>Adoption leave - leave ends on or after 6 April 2024</b></p>	
<p>Employee who is on adoption leave.</p>	<p>The protected period starts on the first day of the employee's adoption leave.</p> <p>The protected period lasts for 18 months after the date of the child's placement with them (or the date of the child's entry into Great Britain if the adoption is from overseas).</p> <p>This means that the protected period continues for the duration of the employee's adoption leave and for a period beyond.</p>
<p>Employee who has returned from adoption leave.</p>	<p>The protected period lasts for 18 months after the date of the child's placement with them (or the date of the child's entry into Great Britain if the adoption is from overseas).</p> <p>For example, an employee who starts their adoption leave shortly before the date of the child's placement with them and takes their full adoption leave entitlement would be protected for around six months after their return to work.</p>
<p><b>Shared parental leave (birth) - leave starts on or after 6 April 2024</b></p>	

Employee who is taking shared parental leave and has taken maternity leave.	The protected period above applies - see Maternity leave above.
Employee who is on a period of less than six weeks' continuous shared parental leave.	The protected period starts on the first day of the employee's shared parental leave. The protected period ends when the employee's period of shared parental leave finishes.
Employee who is on a period of at least six weeks' continuous shared parental leave.	The protected period lasts for 18 months after the child's date of birth, or if the employee has not told the employer the date of birth, 18 months from the first day of the expected week of childbirth. This means that the protected period continues for the duration of the employee's shared parental leave and for a period beyond.
Employee who has returned from a period of at least six weeks' continuous shared parental leave.	The protected period lasts for 18 months after the child's date of birth, or if the employee has not told the employer the date of birth, the first day of the expected week of childbirth.
<b>Shared parental leave (adoption) - leave starts on or after 6 April 2024</b>	
Employee who is taking shared parental leave and has taken adoption leave.	The protected period above applies - see Adoption leave above.
Employee who is on a period of less than six weeks' continuous shared parental leave.	The protected period starts on the first day of the employee's shared parental leave. The protected period ends when the employee's period of shared parental leave finishes.

<p>Employee who is on a period of at least six weeks' continuous shared parental leave.</p>	<p>The protected period lasts for 18 months after the date of the child's placement with them (or the date of the child's entry into Great Britain if the adoption is from overseas).</p> <p>This means that the protected period continues for the duration of the employee's shared parental leave and for a period beyond.</p>
<p>Employee who has returned from a period of at least six weeks' continuous shared parental leave.</p>	<p>The protected period lasts for 18 months after the date of the child's placement with them (or the date of the child's entry into Great Britain if the adoption is from overseas).</p>

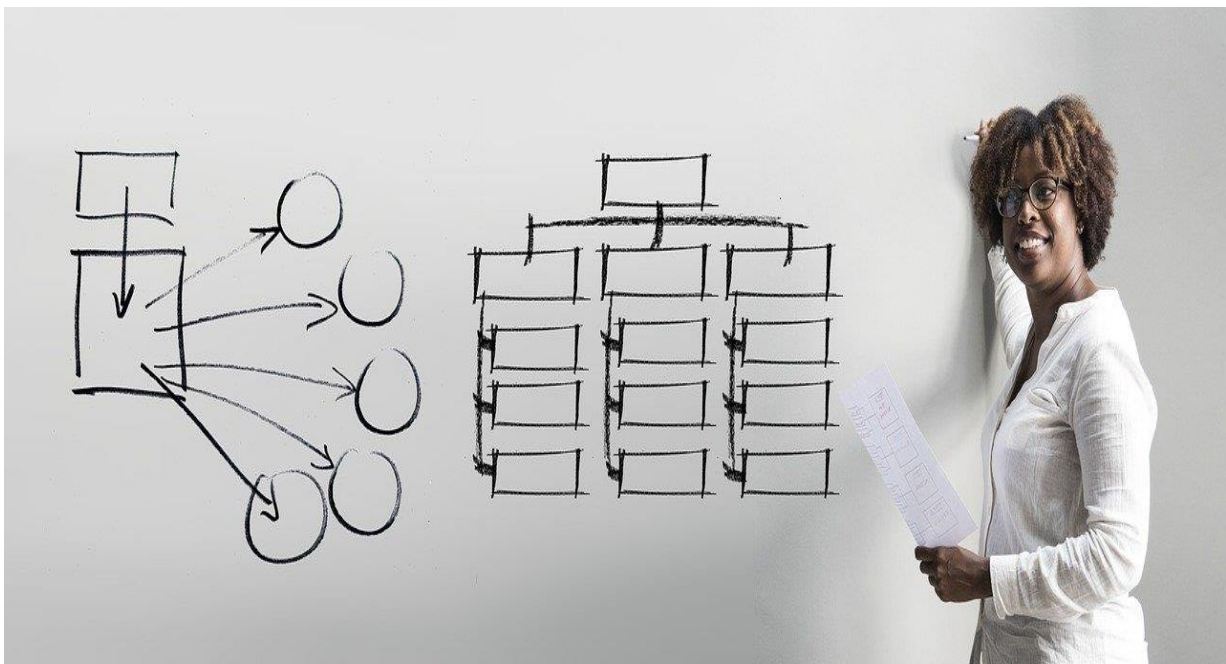
## Appendix 3

# Organisation Design - Design Thinking for Structures

### What is it?

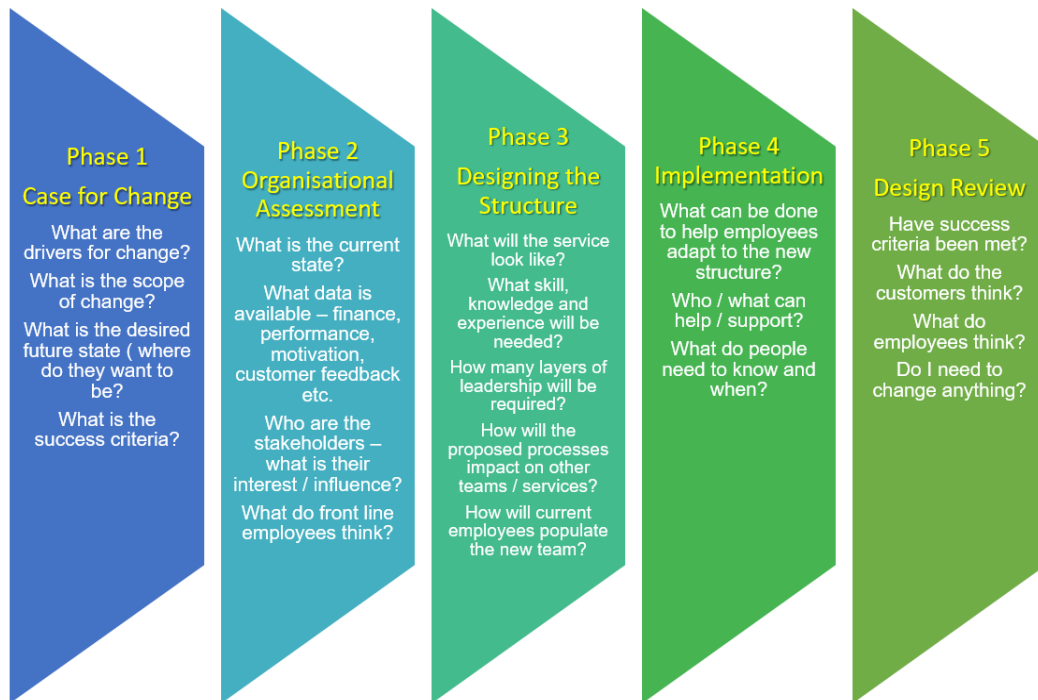
Organisation design is about having the right people, with the right skills, in the right place at the right time.

It is ensuring that our policies, procedures, structures, reporting lines, relationships and culture, help not hinder, our teams to deliver the right services in the right way at the right time.



*Organisation design may be part of a formal management of change process, but it does not have to be. Organisation design can be big or small scale. Leaders thinking about the future of their service, even on a small scale, can use some of the organisation design tools and techniques.*

## Organisation Design Formal or Informal Key Questions for Leaders



### Our Role

We have many Organisation Design approaches in our toolkit, If you need some help to get started, speak to your Directorate Organisational Development Lead or HR Business Manager who can have a supportive conversation but they will also act as a critical friend to help you think things through from different perspectives.

### Our Approach

Your HR Business Manager, Human Resource Advisors and Organisational Development Leads are here to help you think about your service and how the organisation can support your team to work as effectively as possible, so please involve them at an early stage, particularly where a re-structure may be required.

We will:

- Agree ground rules for working together
- Test assumptions
- Share all relevant information
- Explore the reasoning and intent for the change
- Question and challenge, as appropriate to ensure all options are considered
- Jointly design next steps
- Use appropriate tools to help your decision making

We will also partner and support you during and after the change, helping you to review progress and impact.