

Restructure Policy

Section 1. Purpose and scope of this policy

1.1 From time to time the Council is required to review the way in which it provides services. This policy sets out the Council's principles and approach to enable effective management of organisational change where this directly affects employees.

1.2 The details of the change process will be informed by the scale and implications. Operational changes that happen from time to time and which have no impact on an employee's contract of employment remain day to day management issues eg. change of job title, line manager, team, directorate.

1.3 Further consideration and process will be required where the implications have a broader impact on an employee's position and may result in displacement, redeployment or redundancy eg. costed proposal, formal consultation. Such circumstances may arise from:

- Changes in service provision that impact on the type and number of posts.
- Business/service efficiencies that require an internal re-alignment or adjustment to existing posts.
- Reduction/loss of service or funding that results in deletion of existing posts.
- Diminution – a reduction in the numbers of a specific post.

1.4 The core principles of the Council's approach is that:

- Meaningful and early engagement will take place with affected staff in a timely way.
- Consultation will take place with recognised Trade Unions and staff where necessary.
- Timescales will be reasonable and practicable to enable a smooth implementation.
- The Council will always seek to mitigate the risk of redundancy wherever possible.

1.5 A detailed proposal will be required where redundancies are a potential outcome. This will include a business case, financial costing model, reference to the Corporate Strategy and/or Transformation or Cash Limit model. The proposal should be approved by the relevant Strategic Director before any stage is started.

1.6 It is recognised that such situations will generate anxiety – the Council will always handle them in the most fair, consistent and sympathetic manner possible with full regard to our Values. All employees will be reminded of the opportunity to access the Council's Employee Assistance Programme for independent support.

1.7 Equalities statement - at all stages of the procedural guidelines, consideration will be given to the needs of employees with specific reference to the provisions of the Equality Act 2010. The public sector equality duty, as specified within the Equality Act, relates to nine 'protected characteristics'. The Council will not discriminate against employees because of any of these characteristics.

Section 2. Core policy considerations

2.1 Proposals

2.1.1 A more detailed proposal will be required particularly where the proposal impacts across services, teams or directorates. It should also demonstrate the achievement of outcomes, in particular the delivery of an organisation and service that can achieve against strategic and operational objectives and capability.

2.2 Formal consultation

2.2.1 Statutory consultation periods must be complied with if redundancies are anticipated:

- Where 20 to 99 redundancies are envisaged, consultation must start at least 30 days before any dismissals take effect.
- Where 100 or more redundancies are envisaged, the consultation must start at least 45 days before any dismissals take effect.
- For fewer than 20 employees, meaningful consultation must still be undertaken which will normally include one-to-one meetings with employees and, if they choose to be represented, their TU representatives or a **work** colleague.

There is a statutory requirement to notify the Redundancy Payments Service when an employer proposes making twenty or more employees redundant. This is undertaken by completion and submission of an HR1 (Redundancy Notification) Form.

2.2.2 Consultation should begin as early as possible and be ongoing as necessary. The trade unions to be consulted are those which are recognised for the categories of employee concerned, whether or not those affected are union members.

2.2.3 Formal and individual consultation meetings will take place with individuals with a view to seeking agreement on the proposals, selection criteria (if necessary) for any workforce reductions and the methods of appointment / ring fencing to jobs in the new structure, opportunities for 'slotting' and suitable alternatives. Individuals have a right to be represented at formal consultation meetings by a member of a recognised trade union or workplace colleague. Such meetings should be face to face.

2.2.4 Individuals who are directly affected may be **'at risk of redundancy'** – such circumstances include:

- current post is being deleted
- substantial change to existing post
- a reduction in the number of posts holders carrying out the same role ('diminution').

2.2.5 The objective is to reach agreement within the consultation period. Any written representations or counter proposals made by the trade union(s) and/or individuals must be considered and assessed against the business need and objective. If any proposals are rejected, the trade unions and/or individuals should be informed in writing of the reasons for this.

2.3 Preliminary measures – mitigating considerations

2.3.1 The Council will consider a range of measures to mitigate potential redundancies – for example (but not limited to):

- (a) ending agency staff, consultants and 'contractor' arrangements,
- (b) termination of casual contracts,
- (c) reduction or elimination of overtime,
- (d) non-filling of vacancies (or appointing on only a casual basis),
- (e) restrictions on external recruitment,
- (f) voluntary reduction in working hours,
- (g) in the case of a restructuring, 'ring-fencing'
- (h) consideration of offering a suitable alternative vacancy.

2.3.2 Further measures may include:

(a) Voluntary redundancy (VR) – individuals may be invited to come forward to be considered for VR only when redundancies are being considered. However, VR does not have to be accepted and it will be necessary to determine a set of criteria to be used when selecting which employee's requests will be accepted. Considerations are (but not limited to):

- Cost – maybe cost prohibitive.
- Risk of loss of key skills and experience.

2.4 Making appointments to the new structure

2.4.1 All new roles and amended job descriptions will be evaluated and considered within the Council's grading structure.

2.4.2 Individuals who are acting up or in receipt of an additional responsibility allowance, will be considered in their substantive role when assessing the implications of a restructure/ change of roles – irrespective of the period of time the arrangements have been in place.

2.4.3 The Council will endeavour to identify available roles for affected employees to avoid redundancy. Offers of alternative employment can take place in two ways:

(a) Slotting – this is where a new/amended post is:

- at least 75% the same as an existing job description.

AND

- is at the same grade, terms and conditions

AND

- there is no reduction in the number of employees carrying out the role (ie. diminution).

(b) Suitable alternative employment – whether a job is considered suitable depends on:

- How similar the work is to the current role.
- The terms of the job being offered should be similar, eg. status, place of work, pay, hours of work, responsibility.
- A match of the right skills, abilities and circumstances in relation to the job
- The pay, status, hours and location.

2.4.4 An employee at risk of redundancy whilst on maternity leave, adoption leave or shared parental leave, must be offered a suitable alternative vacancy where one exists. They will not normally be required to compete for such a role, although there may be an exploratory interview to determine whether their skills and experience match the essential requirements of the job.

2.5 Ring fencing and appointments

2.5.1 After full consideration of ‘slotting’ and ‘suitable alternative employment’ any remaining new posts in the structure can then be advertised. In the first instance, any new posts are ‘**ring fenced**’ to those directly affected and who are at risk of redundancy. Employees who are not at risk of redundancy cannot apply for the posts at this stage.

Any decision to exclude or include an individual from a ring fence must be justifiable in objective terms and with all evidence available to support the decision.

2.5.3 Employees who are ring fenced will be required to undergo a selection process based on the requirements of the service – for example, written submission, interview and/or assessment method.

2.5.4 ‘At risk employees’ will receive **preferential consideration** for posts that are:

- at the same grade, OR
- one grade lower.

Preferential consideration means the individual will be guaranteed an interview where they meet the essential criteria of the role. Employees with preferential consideration should be interviewed and considered before employees who are not at risk of redundancy.

2.5.5 No additional travel expenses will be reimbursed by the Council to individuals who are redeployed into a post at another location.

2.5.6 Consideration will always be given to reasonable training of employees in order to enable an employee to meet the needs of an alternative role and avoid redundancy.

2.6 Trial Periods

2.6.1 Where a new job is offered that is a reasonable alternative but there are some differences to the previous position and the terms and conditions, the employee is entitled to **4 weeks statutory trial period** in the new job. The trial period should commence after their previous contract has ended. More time can be agreed where necessary.

2.6.2 If either during the trial period or at the end, the employee does not wish to continue with the new job, the employee's contract of employment may be terminated on redundancy grounds and receive a redundancy payment. However, if the refusal is not considered 'reasonable' the employee may forfeit their entitlement to a redundancy payment.

2.6.3 If the trial period is successful and the employee remains in the new role, they will be considered to have accepted the new job and there is no entitlement to redundancy.

2.7 Pay Protection

2.7.1 Where an employee is redeployed to a post at a lower level, the following pay protection arrangements apply.

- Protect at existing level for one years.
- One grade difference.
- Pay is frozen at existing level (ie. There will be no increments nor pay award applied).

2.8 Substitution and bumping

2.8.1 Substitution (or bumping) is a means of creating redeployment opportunities by seeking volunteers for redundancy from outside the employee group in which the redundancy situation exists. ie. Moving potentially redundant employee (A) into another role and dismissing the employee currently performing that role (B). Substitution must be the reason for dismissal.

2.8.2 When substitution is included in the proposal, voluntary redundancy may be offered to the holders of posts in any directorate, which could provide suitable redeployment opportunities for employees in the group affected on the same basis as above. Release will be subject to the agreement of the relevant Strategic Director and subject to an employee in the group affected being redeployed on a permanent basis into the vacancy created.

2.8.3 The costs associated with the redundancy will be met from the budget of the directorate in which the redundancy situation exists.

2.9 Compulsory redundancy

2.9.1 Compulsory selection may become necessary where all other measures as outlined in this policy have been followed. Clear selection criteria and positions affected will have been outlined in the proposal/business cases and would include circumstances where there is a need to reduce the number of employees in the organisation or a team – this will require selection criteria.

2.9.2 The selection pool will reflect roles that have similar skills. The criteria and process must be fair, be based on facts that can be measured and not be affected by personal opinions. The same way of scoring must be used in the same way for all employees in the selection pool.

2.9.3 Examples of selection criteria could include:

- Standard of work or performance.
- Skills, qualifications, or experience.
- Attendance record, which must be accurate and not include absences relating to disability, pregnancy, or maternity.
- Disciplinary record.

2.9.4 Different levels of points (weighting) can be used according to the importance of each criteria and which reflects business need.

2.10 Notice of redundancy

2.10.1 Notice of redundancy can only be given when formal consultation has been completed and the selection process if necessary, has been followed.

2.10.2 Individuals will be invited to a formal meeting where the proposal to issue redundancy will be considered and afterwards, they will be advised of the outcome. They have the right to be accompanied/represented by a recognised trade union representative or workplace colleague.

2.10.3 There are statutory notice periods that provide the minimum notice that must be given. Subject to both parties agreeing, employment can be ended sooner if pay is made in lieu of notice (PILON). The employee will receive all of their basic pay that they would have received during their notice period.

2.10.4 If an employee considers they have been unfairly selected or that proper process has not been followed, they can **appeal** by notifying the Chief Executive in writing, within 5 working days of receiving formal notice. The appeal will be considered in line with the Council Policy and delegations.

2.11 Redundancy pay

2.11.1 Redundancy payments are based on the Employment Rights Act 1996 (Section 162) and the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 - specifically:

- The number of weeks' pay as provided within the legislation based on age and length of continuous local government service of 2 years and more.
- The length of service is capped at 20 years.
- Actual weeks' pay rather than the weekly statutory minimum.
- Pension contributions do not count towards calculation of a week's pay.

2.12. Pension benefits when made redundant

2.12.1 Early release of pension benefits are made in accordance with Local Government Pension provisions and are amended from time to time.

2.12.2 Pension benefits are as follows:
(*Local Government Pension Scheme – LGPS*)

Not in the LGPS	No pension benefits
Aged under 55	Deferred pension benefit No early release of benefit <i>Employees can voluntarily access their pension early but this will be reduced accordingly – the Council does not provide any enhancement.</i>
Aged 55 and over	Release of pension benefit – unreduced – this means the percentage reduction scale on the lump sum and annual pension, is not applied.

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