

London Borough of Merton

Framework for Managing Organisational Change

Effective from 1 November 2007

Date of next review: October 2008

Contents	Page
Introduction	3
Objectives	3
Definition of Organisational Change	4
Proposals for Change	4
Consultation	5
Management of the Process	6
Voluntary Redundancy	7
Final Decision	9
Appointing to the New Structure	9
Redeployment of Displaced Employees	11
Managing the Remaining Staff – Displaced Employees	12
Disabled Employees	13
Employees on Authorised Long Term Absence	13
Support Available to Staff Facing Redundancy	14
Monitoring	14
Appeals	14
Record Keeping	15

Framework Procedure for Managing Organisational Change within the Council

1. Introduction

- 1.1 This document sets out the framework for managing organizational change within the Council. In particular it sets out a basis for managing the human resources aspects of such changes including consultation and redeployment in a lawful and fair manner. It is designed to avoid compulsory redundancies wherever possible and to seek suitable redeployment as a first option for affected employees.
- 1.2 This document has been the subject of consultation with Staff Side. Where potential redundancies are identified, consultation with affected employees and recognised trade unions/Staff Side will be required in line with statutory requirements.
- 1.3 This Procedure replaces all other procedures on managing reorganisation and will apply to all employees except the Chief Executive and school based staff. It should be noted that where the procedure is applied to centrally based education staff, the timeframes identified in this procedure may need to take into account term time working.
- 1.4 No two organisational changes are the same nor are two organisational structures identical. This framework procedure is intended to be the default procedure, which will apply in the absence of a specifically consulted procedure. Where management and Staff Side jointly propose a local procedure to deal with a localised organisational change it is expected that the principles contained in this framework will be observed. Any significant variation of this framework must be agreed with the Head of Human Resources (or nominee) and staff side.
- 1.5 The Council is increasingly being driven to consider joint and collaborative working arrangements with external partnerships. It should be noted that where assimilation of posts to external partners occurs consideration to involve other Trade Union representatives in the process should be made e.g. the Health Service.

2. Objectives

- 2.1 The objectives of this procedure are to:
 - Provide a transparent process for managing changes which have an impact on employees;
 - Seek to achieve continuing employment for staff whose posts are deleted and avoid or minimize the need for redundancies through the use of redeployment

- Ensure that, where a reduction in the number of posts is necessary, this takes place in a regulated manner in consultation with employees and their respective trade union representative/Staff Side.
- Provide a record of decision making at every stage of the process.
- Implement the duty to ensure equality of opportunity '.

3. Definition of Organisational Change

- 3.1 Organisational change is defined as a significant (as opposed to minor) alteration or variation in the organisation of the Council, which will have effect on staff in terms of including but not limited to, staff numbers, grades, salaries, terms and conditions, work location, environment and working practices.
- 3.2 Examples of such an organisational change include:
- Reorganisation of the Council or Department of the Council
 - Rationalisation – changes to or the closure of a specific service or facility;
 - Outsourcing of functions - the decision to accept a competitive tender for a service previously provided in-house;
 - Budget led changes - a specific and identifiable programme to achieve efficiency savings
 - Technology led changes - the introduction of, or significantly increased use or change of technology.
 - Joint working arrangements with other public bodies
 - Large or small scale transfer of Council housing
 - Increases/growth in establishment for service teams

4. Proposal for Change

- 4.1 Proposals for change will often be considered at two stages – (1) the “options appraisal stage” and (2) the options proposal stage. The options appraisal stage is where options for improving or developing a service are considered. The proposal stage is where an option has been adopted and the proposal for implementing that option is being formulated.
- 4.2 A Proposal Report is a report containing proposals (not blue sky thinking) at a formative stage before a decision is made. It is written in order that it can be cleared for consultation with staff and stakeholders. A Proposal Report will be prepared by the relevant Head of Service /Service Manager with appropriate HR support, containing: details of the proposal for change; reasons for the proposal; the process for implementation of the proposal and their potential implications; the project plan, timescale including implementation date. This proposal report will normally be signed off by the Director at a DMT meeting as part of the formal commencement of the process. (Appendix A - Implementation Timetable Format – Guidance for Managers only).

5. Consultation

‘Consultation is the process by which management and employees or their representatives jointly examine and discuss issues of mutual concern. It involves managers actively seeking and then taking account of the views of employees, either directly or through their representatives, before making decisions. Meaningful consultation depends on those being consulted having adequate information and time to consider it but it is important to remember that merely providing information does not constitute consultation.’ - Acas

5.1 Once the Proposal Report is approved, a consultation paper will be published for all affected staff and trade union representatives. All proposals relating to the organisational change and redeployment and dismissal of employees will be subject to meaningful consultation at the earliest opportunity ‘with a view to reaching agreement’, Trade Union and Labour Relations (Consolidation) Act 1992 (TULR©A) and before the proposal becomes a final decision, with those affected and their TU representatives/Staff Side to confirm the way in which the Council will seek to:

- Avoid redundancies;
- Reduce the number of employees to be made redundant and
- Mitigate the effects of reductions in posts through redeployment.
- How any severance payments are to be calculated

5.2 The Courts interpret meaningful consultation to be “*first, that consultation must be at a time when the proposals are at a formative stage. Second, that the proposer must give sufficient reasons for any proposals to permit intelligent consideration and response. Third, adequate time must be given for response. Fourth that the product of consultation must be conscientiously taken into account in finalising the proposals*”. (Gunning)
The statutory timescales set down below gives an indication of timescales involved.

5.3 Where the Council is “proposing” collective redundancies, the Council will consult in good time with all the persons who are “appropriate representatives” of any of the employees who may be dismissed, by reason of redundancy, in accordance with the TULR©A. The consultations must continue for a specified period prior to any dismissals taking place.

5.4 Where it is proposed that between 20 – 99 employees are to be dismissed a minimum consultation period of 30 days must be made available. Where it is proposed that 100 or more employees are to be dismissed a minimum consultation period of 90 days must be made available.

5.5 There is no set period for collective consultation laid down where the redundancies involve less than 20 employees. However ‘best practice’ would require applying as a minimum the 30 day consultation period before any dismissal takes effect.

5.6 Where the Council is “proposing” to delete a Director /Head of Service post the Council will consult in good time with all the persons who are “appropriate representatives” of any of the employees who may be dismissed in accordance with the Joint Negotiating Committee for Chief Officers of Local Authorities - Constitution Conditions of Service Salaries (last issued October 2000).

5.7 Consultation is for a fixed period and is not open-ended. To this end a reasonable consultation period will be set by management and the next stage of the process will follow at the end of that set consultation period.

5.8 Consultation for the purposes of Transfer of Undertakings (Protection of Employment) Regulations, TUPE, is with the recognised Trade Union, (TU) only. The TU must be informed about any prospective transfer of staff and be consulted about any measures that the Council or the new employer envisages taking concerning the affected employees.

5.9 The consultation process must take place in ‘good time’, in order to allow the Council to consider and respond to any representations made. The consultation must be undertaken with a view to seeking agreement from the TU to the intended measures.

The Council is required to advise the TU of specific information in relation to the transfer; this is contained within the legislation.

6. Management of the Process

6.1 The Head of HR is operationally¹ responsible for managing the change process.

6.2 Under the Councils Scheme of delegation the Chief Executive is responsible for the Council’s shape and structure and Chief Officers (Directors) are responsible for the management of their own departmental structures. It is for the judgment of the Director or nominee and the judgment of the Chief Executive whether a restructuring at whatever level should be an officer or a member decision.

6.3 Depending on the extent of the organisational change, management with the Head of HR/Employee Relations Manager will lead on the Corporate consultation process with Staff side on the overall impact across the Council.

6.4 Directors and Departmental HR Managers will lead the consultation on the local impact and implementation of the process departmentally through their Departmental Consultative Committee or an equivalent forum with the Trade Unions representatives where details of the proposals will be discussed.

¹ Operationally as opposed to strategically. The Director or nominee decides on the strategy for change in accordance with business and service needs. The role of HR is to project manage the decision to change, not to make the decision to change.

6.5 The Council recognises the disadvantage faced by certain groups of employees in the workplace (e.g. staff with disabilities). Where employees face redundancy, steps should be taken to ensure that they are not unreasonably disadvantaged by:

- Consulting the Occupational Health Service (OHS) for specialist advice, if appropriate
- For disabled employees by consulting with the OHS, the Corporate Diversity team who will consult with the Disability Advisory Service of the Employment Services for advice on reasonable adjustments – such considerations must be made during the consultation process, the assimilation and or redeployment process
- Taking appropriate steps to find suitable alternative employment
- Any unjustified assimilation/appointment criteria

6.6 Individual consultation meetings – and or collective discussion on change programmes - with the identified vulnerable employees at which there is the right to be accompanied by their trade union representative or a work colleague will also be held by their managers and where appropriate, a departmental HR representative. The purpose of the meeting is to advise of the proposal, the rationale for the proposal and if the proposal goes ahead what this means for their employment position.

6.7 Where there are large-scale reorganisations, regular weekly meetings will be convened between the ER Manager and Departmental HR Managers to provide progress reports and ensure a consistent and equitable approach. Where any alterations are made to the change programmes these will be communicated to staff side.

6.8 An Equality Impact Assessment will be carried out at various stages of the process. This will begin by setting out the profile of staff at the beginning of the process and at the end and will include taking impact assessments at critical stages of specific proposals before they are implemented. This will be shared as part of the consultation documentation.

7. Voluntary Redundancy

7.1 Where necessary organisational change cannot be achieved through redeployment, the Council can make available severance arrangements under its discretionary powers.

In exercising its discretion the council will take into account that those who volunteer for voluntary severance (and are accepted) are facilitating the efficiency of the reorganisation process and therefore the efficiency of the service and may therefore be entitled to the exercise of discretion in the amount made available to them.

7.2 The Council has a responsibility to its entire workforce to avoid compulsory redundancies wherever possible. Directors should ensure that

all opportunities for voluntary redundancy, redeployment and retraining are fully utilised whilst bearing in mind the financial implications of these initiatives.

7.3 The voluntary release of employees should be explored at an early stage of the redeployment process. However it must be noted that there is unlikely to be sufficient information available to inform of the number of jobs, which may potentially be affected by redundancy, and the exact number of volunteers desired. Therefore at this stage it must be stated that there can be no commitment that voluntary severance (VS) will be granted. However, a trawl at this stage to assess the likely take-up of VS and the resulting impact of such an assessment on the situation may be of assistance.

7.4 At the appropriate stage in the consultation process – the individual meeting – formal applications for VS can be considered. At that stage encouragement should be given to employees who wish to consider the option. However, at the same time it is important that the Council retains discretion over the selection of volunteers who will be granted release and does not spend more on redundancy payments that it can reasonably afford.

7.5 The procedure for implementing VS is as follows: -

- An employee who wishes to consider applying for VS should complete the 'Expression of Interest' form and return it to their Departmental HR Manager/Advisor
- The HRM/Advisor will check that the application qualifies for consideration for VS within the definition of a redundancy situation – see section 2.
- The Director of Corporate Services in conjunction with the appropriate Head of Service will consider the application against the criteria for agreement. The decision will take into account the following criteria, although the list is not exhaustive. Should alternative criteria be considered this would form part of the consultation process.

1. The reality of the threat of redundancy
2. The cost of that VS/ redundancy
3. The skills and experience that the Council would stand to loose
4. The ability of the service to continue to function
5. Any related ill health issues particular to the individual.

7.6 The decision to agree to the VS application or not, will be confirmed in writing by the Director/Head of Service. There is no formal right of appeal against the decision, although the member of staff will be advised of their right to invoke the Grievance Procedure should they disagree with the decision.

8. Final Decision

8.1 Following the end of the consultation period a final report consisting of the following will be prepared for final consideration and approval by the Director:

- The final job descriptions and person specifications
- An overview of the key issues raised during consultation together with the response and the resulting changes (if any);
- The final structure, process and staffing implications;
- The final implementation plan and timetable;
- Outcome of the equality impact assessment.

8.2 Once authorised by the Director, the finalised implementation plan including a timetable will be notified to staff and Staff Side.

9. Appointment to the New Structure

9.2 Unless a different procedure has been agreed during the consultation period, appointment to the new structure will place as set out below. The assimilation will be undertaken on a duty-to-duty match i.e. this will compare the job descriptions of the present and new roles.

9.3 The first appointments to the new structure will be made by assimilation. Assimilation is used when:

- (i) The old post is similar to the new post in duties, responsibilities and grade such that the employee can properly claim a match under the assimilation criteria; and
- (ii) There is the same number of posts at that level available in the new structure as in the old structure.

In these circumstances the post has to be fundamentally the same, largely corresponding to the former duties: differences that would not be substantial might include a variation in the working method, content, or a minor change in the level of responsibility or a change in reporting lines. This will be a matter of professional judgment for Corporate or Departmental Human Resources and factual judgment of the appointing manager in consultation with affected employees and their trade union representatives/ Staff Side.

9.4 There are two types of assimilation, direct assimilation and assimilation by assessment. In some circumstances, employees may have no opportunity for assimilation (see 9.9).

9.5 Where there is consideration to include current agency staff in a ring fence both legal and HR advice are strongly recommended prior to a decision being taken.

Appendix B – Assimilation guidelines and Recording Form

Direct Assimilation

(i) Manager(s) and Departmental HR Managers as part of the consultation process will have used the job description and person specifications and identified those jobs in the new structure that are sufficiently comparable to jobs in the old structure for direct assimilation to occur. Sufficiently comparable means that:

- There is a substantial (75%) match between the essential requirements of the new and old jobs, based on a comparison between the job description and person specification.
- The substantive grade has not changed.
- The core requirements as reflected in the person specification required to do the job are exactly or substantially the same.

(ii) Assimilation by Assessment

The purpose of the assessment is to ensure that candidates for assimilation have the knowledge and skills to undertake the essential duties of the new post, as detailed in the person specification.

9.6 Departmental managers and HR as part of the consultation process will have determined the details of the ring-fence. Assimilation by assessment is necessary for recruitment to those posts that have changed fundamentally or are new and judgment has to be made as to whether the existing employees can carry out the new role. Matching of people to posts by assimilation by assessment is subject to trial periods. Circumstances that could lead to assimilation by assessment might be:

- Where there are more employees than jobs;
- Where there is a grade differential of one grade up or down from the substantive grade and or the old job (– the purpose and core responsibilities) are subsumed into the new role and the new grade is a differential of one up or down from the substantive grade.
- Where an employee is in an acting-up or secondment arrangement at the time of the organisational change and has been in that same seconded position continuously for one year or more. The grade of the secondment must be the same grade or one grade up or down from the new role, the substantive post of the seconded employee has been deleted and there is no substantive post-holder in the new post.
- Where the essential requirements of the new and old job do not match but there is significant match of the person specification, in these circumstances, a 'ring-fence' will be created which will determine who is eligible to be considered for the new post(s) within the reorganisation. For example, there may only be one post and one employee involved or, on occasions, it may be necessary to extend the 'ring-fence' to include posts of similar type in other departments where the post-holders are vulnerable and are

considered eligible for assimilation after assessment, e.g. generic posts such as Human Resource Advisors, Personal Assistants, Driver/Escort, Park Ranger, Social Worker

- 9.7 Details of vacant post(s) including the job description, person specification and the proposed appointment process should be circulated to all employees within the ring-fence. Those employees wishing to be considered, will be asked to complete a shortened application form will be interviewed in accordance with the Council's normal selection process (having regard to any appropriate testing processes which may apply).
- 9.8 Selection decisions will need to take into account any gaps in skills identified in comparison with the person specification and whether these gaps can be bridged by training, coaching or guidance. In all cases, account will be taken of current employment legislation.
- 9.9 The line manager will meet with individual employees to confirm the outcome of the assimilation process. HR will issue formal written confirmation of assimilation decision to individuals following the meeting to include the decision and appropriate rights of appeal.

.9.10 No Assimilation Right

There is no right to direct assimilation where:

- There is a substantial difference between the essential requirements of the old job and new job and employees do not have the professional qualifications, skills and experience needed in the new job, and cannot reasonably acquire them within the trial period even with the benefit of training, support and assistance or where an employee has been in a acting-up or secondment arrangement in the same position for less than one year;

There is no right to assimilation by assessment where:

- The grade differential between the old and new job (whether subsumed or not) is more than one grade up or down from the substantive grade, or where an employee has been in a acting-up or secondment arrangement in the same position for less than one year;

- 9.11 Where the refusal of an alternative job is considered to be unreasonable this factor will be taken into account when exercising the discretion available when making severance payments.
- 9.12 Where the refusal of an assimilation offer is reasonable, suitable alternative employment will be explored.

10 Redeployment of Displaced Employees

10.1 After the completion of the assimilation process and before Notices of Redundancy have been issued, an equality impact assessment will be carried out and any appropriate corrective measures carried out. Departmental HR Managers working with the Resourcing Manager (who will maintain a register of redeployees) will seek to redeploy displaced employees wherever possible by:

- Considering suitable vacancies within the Council at either the same, or at a lower grade, prior to these being released for internal or external advertisement or agency placements
- Searching across the Council for suitable jobs at the same substantive grade or at one grade higher or lower for trial period (including the displacement of agency staff)
- Offering suitable training and guidance to work within or outside the Council
- Giving reasonable time-off for job search and to attend interviews

10.2 Employees should be considered as a redeployee as early as possible within the process or no later than:

- The date that they are officially notified that the job is at risk;
- The date when it is established that the employee does not match the criteria for the job; or
- The date the assimilation exercise is completed.

Whichever is the earliest.

10.3 This redeployment process (see Redeployment Procedure) will also be applicable to employees whose fixed term contract is not being renewed.

11. Managing the Remaining Staff - Displaced Employees

11.1 Redundant Posts

A redundant post is one where as a result of the reorganisation:

- The Council has ceased, or intends to cease, to carry on the business for the purposes for which the employee was employed, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed

Or

- The fact that the requirement of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he /she was so

employed, has ceased or diminished, or is expected to cease or diminish.

(Section 139 (1) Employment Rights Act (ERA 1996)

A redundant post will be deleted from the structure.

11.2 Issuing Notice

Managers in consultation with Departmental HR Managers will normally issue a termination notice to employees for reasons of redundancy, i.e. their existing contract of employment is to end as their job has disappeared or significantly diminished and it has not been possible to accommodate them within the new structure. However, this is not an immediately automatic process, and it is for departments, in conjunction with their Departmental HR Managers to decide when it is appropriate to issue notice. These decisions must take into account the consultation process and staff side views. For example, it may be sensible to delay issuing notice in circumstances where there are plans to redeploy the member of staff into another vacancy in the department or Council within a short space of time. In other circumstances the appropriate notice might be for "some other substantial reason" i.e. failure to accept reasonable alternative employment. Any new contract will take effect from the day after the old contract expired.

11.3 Notice Periods

Employees whose jobs are deleted and where no ring fence and/or assimilation exists will be issued with 12 weeks notice of redundancy, or 3 calendar months where specified in the Contract of Employment. Where non-renewal of fixed term contract is the reason for redundancy the employee's contractual notice terms will apply. Where redeployment is being sought, the Council will give a clear commitment to seek, suitable redeployment opportunities during the notice period wherever possible.

12. Disabled Employees

12.1 Managers are reminded of their responsibilities under the Council's Equal Opportunities and Diversity Policy and Disability Discrimination Act 1995. In particular, they must not treat a disabled person less favourably than others, when dealing with redeployment or redundancy.

12.2 Consideration should be given to whether any of the provisions contained in paragraphs 9-11 above are capable of reasonable adjustments in order to meet the needs of disabled employees. In particular some timescales may be extended to allow the receipt of occupational health advice and/or to

acknowledge that some work areas may need time to assess what reasonable adjustments can be made for a displaced disabled employee.

13. Employees on Authorised Long Term Absence

13.1 Pregnant employees, employees on maternity or parental leave or long-term sick leave, should be treated no differently from other employees when applying this Procedure. They must be kept informed of all changes on a regular basis.

14. Support Available to Staff Facing Redundancy

14.1 Time Off to Look for Work

In accordance with legal requirements employees who have been declared redundant will be allowed reasonable time off during their notice period to look for work. The timing and granting of time off by the line manager will take into account the operational requirements of the particular service, time-off will not unreasonably be withheld.

14.2 Other Support

The process of redeployment and particularly redundancy can be difficult and the Council will provide practical support to employees where possible. It will be for each department to fund this support, which may involve, for example, practical and affordable retraining, interviewing skills, CV completion guidance, explanation of pensions and benefits etc. Departmental HR staff and the Learning & Development Manager are committed to give advice and support to employees wherever practicable.

15. Monitoring

15.1 Monitoring of employees made redundant will be undertaken by the Departmental Human Resources Teams in order to provide information on gender, race and disability and age. Departmental HR Managers will complete monitoring forms on a regular basis. These will be collated by the HR Business Partnership team and presented regularly to Members, Senior Managers and Staff side.

16. Appeals

16.1 An employee has the right of appeal against the outcome of the assimilation and redeployment process (see Redeployment Procedure) and termination of employment (dismissal by reason of redundancy). A Trade Union representative or work colleague may accompany an employee at an appeal hearing.

16.2 The decision letter from the Director/Head of Service will confirm the name of the person to whom the appeal should be made. For an appeal against a dismissal decision, the Director hears the appeal. For an appeal against a decision below dismissal the HOS hears the appeal – if, however, the HOS has already been involved in the case, the Director will conduct the appeal.

16.3 The appeal must be made in writing within five working days of the date of the decision letter. The appeal must state the grounds of the appeal – as outlined below:

- Failure to be offered a trial period in a particular post;
- Failure to be included within a particular ring-fenced group;
- Failure to be appointed to a post in the new structure;
- The suitability of alternative offers of employment;
- Incorrect application of the Redeployment Procedure.
- Unfair selection for redundancy
- Dismissal not handled reasonably

16.4 The appeal manager arranges the appeal hearing. The employee must provide any supporting evidence to support the basis of her/his appeal to the named appeal manager within five working days of submitting her/his appeal. The employee must also provide the names of any witnesses at least two days prior to the appeal hearing. The statement will be removed should the witness not be prepared to accompany the signed statement.

16.5 The appeal manager, with the assistance of an HR representative, ensures that the manager who made the assimilation, redeployment or dismissal decision provides a management case statement within five working days of receipt of the employee's appeal - this statement is then used at the appeal hearing.

16.6 The appeal manager, with assistance from the HR representative, ensures that all parties receive the appropriate evidence prior to the appeal hearing.

16.7 The appeal manager conducting the appeal hearing should seek advice from HR, as appropriate. This decision is final.

17. Record Keeping

17.1 Records are confidential and are kept in accordance with the requirements of the Data Protection Act 1998, which allows access to records by employees. In respect of every decision and act a record must be kept of:

- Who made the decision, when it was made and the reasons for the decision
- What steps were taken, who actioned them, when they were actioned and the outcomes

12th June 07

30 October 07

February 08

April 08