

COUNCIL RESTRUCTURE

PROCEDURE FOR MANAGING THE REORGANISATION OF THE COUNCIL 2003

1. INTRODUCTION

- 1.1 This document sets out the framework for managing the corporate reorganisation arising from the Council's restructure agreed on 5 March 2003. In particular this framework sets out a basis for managing changes 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 and negotiation with StaffSide. Where redundancies are identified, consultation with affected employees and recognised trade unions/Staffside will be required.

2. OBJECTIVES

- 2.1 The objectives of this procedure are to:
 - Provide a transparent process for managing change;
 - 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 staff and their respective trade unions/Staffside.
 - Provide a record of decision making at every stage of the process.

3. CONSULTATION

- 3.1 All proposals relating to the reorganisation and redeployment of employees will be subject to meaningful consultation 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

4. **MANAGEMENT OF THE PROCESS**

- 4.1 The Head of Human Resources will oversee the management of the reorganisation and redeployment process in consultation with Staff Side. In the event of disagreement by either party the matter will be referred to the Staff Consultative Committee for arbitration. Departmental HR Managers will lead the consultation and implementation of the process. Regular weekly meetings will be convened between Corporate HR and Departmental HR Managers to provide updates and ensure a consistent and equitable approach.

5. **APPOINTING STAFF TO THE NEW STRUCTURE**

5.1 **Informing Staff**

The reorganisation shall be implemented in two stages. Stage 1 affects the top-level structure of the organisation (Directors and Heads of Service). Once the top tier structure is agreed and person specifications and job descriptions have been drawn up and evaluated then implementation can proceed. Stage 2 implementation will commence after the completion of Stage 1 and once Stage 2 job descriptions person specifications have been drawn up and evaluated.

6. **ASSIMILATION**

- 6.1 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 are 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 judgement for Corporate/Departmental Human Resources and factual judgment of the appointing manager in consultation with trade union representatives/Staffside.

- 6.2 There are two types of assimilation, direct assimilation and assimilation after assessment. In some circumstances, employees may have no opportunity for assimilation (see 6.5).

Direct Assimilation

(i) The Head of HR and Departmental HR Managers in consultation with trade union representatives/Staffside and manager(s) must use the person specifications, and job descriptions to identify those jobs in the new structure that are largely corresponding to jobs in the old structure for direct assimilation to occur. Sufficiently comparable means that:

- That there is a substantial match between the essential requirements of the new and old jobs, based on a comparison between the job description and person specification.
- The grade has not changed.
- The core competencies required to do the job are 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.

- Departmental managers and HR, in consultation with trade unions representatives/Staffside, will determine the details of the ring fence. Assimilation after 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, or the old job is subsumed into the new role.
 - Where the essential requirements of the new and old job do not match but there is significant match of the person specification, the Head of HR in consultation with HR Managers judges that some employees may have the potential to do the new job. In these circumstances, a 'ringfence' 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 'ringfence' to include posts of similar type in other departments where the postholders are

vulnerable and are considered eligible for assimilation after assessment, e.g. generic posts such as Secretaries, Receptionists, Word Processor Operators and Clerical Assistants.

- 6.3 Details of vacant post(s) including the job description, person specification and the proposed recruitment process should be circulated to all employees within the ringfence. Those employees who apply will be interviewed strictly in accordance with the Council's normal selection procedure.
- 6.4 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. Managers should recognise the disadvantage faced by certain groups of employee in the workplace. Where these employees face redundancy, steps should be taken to ensure that employees are not unreasonably disadvantaged by:
- Consulting the Occupational Health Service (OHS) for advice.
 - For disabled employees by consulting OHS and the Disability Advisory Service of Employment Services for advice on reasonable adjustment.
 - Taking appropriate steps to find suitable redeployment.

6.5 No Assimilation Right

There is no right to assimilation where:

- There is a substantial difference between the essential requirements of the old job and new job and employees do not have the 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
- The grade differential between the old and new job is more than one grade up or down, unless in circumstances where the old job is subsumed into the new role.
- The refusal of an assimilation offer is reasonable, available suitable options of alternative employment will be explored. The Head of HR will arbitrate and settle all internal disputes arising. (See Trial Periods).

Where the refusal is unreasonable redundancy payments will not be payable or where payable, discretion will not usually be exercised to enhance the minimum statutory payments. If payment is denied then ACAS will be invited to arbitrate.

7. REDEPLOYMENT OF DISPLACED EMPLOYEES

7.1 After the completion of the assimilation process and Notices of Redundancy have been issued, Departmental HR Managers working with the Recruitment 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 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

7.2 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.

8. ADDITIONAL CONSIDERATION

8.1 Managers should recognise the difficulties faced by disadvantaged employees and groups of employee in the workplace and consult with HR as necessary. Managers must remember that the Council has a duty to make reasonable adjustments for people with disabilities.

9. DEALING WITH EXISTING STAFF WHO ARE NOT PLACED IN THE NEW STRUCTURE

9.1 Deleted Posts

A deleted post is one where as a result of the reorganisation the work has:

- (i) ceased;
- (ii) significantly diminished; or
- (iii) substantially changed.

9.2 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. 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 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.

9.3 Notice Periods

Employees whose jobs are deleted and where no ringfence and/or assimilation exists will be issued with appropriate notice of Redundancy. Where redeployment is being sought, the Council will give a clear commitment to seek, wherever possible, suitable redeployment during the notice period.

9.4 Redeployment

Employees who are not assimilated into posts within the new structure or who are unsuccessful in a trial period will automatically become eligible for the redeployment process.

9.5 Redeployment within the Department Concerned

In order to fulfil the Council's responsibilities, it is the prime responsibility of the departments concerned to redeploy any employee who has been displaced as a result of a reorganisation. Departments are best placed to accomplish a successful redeployment. They should make every effort to do so. Departmental HR Managers should be involved in relevant discussions with HR colleagues, managers and recognised trade unions. At the same time, the Recruitment Team will maintain a redeployment register and liaise with the relevant Departmental HR Managers to match staff with available jobs which are in other departments.

9.6 Placing Staff on the Redeployment Register for Corporate Redeployment

There is a corporate requirement for all Departments to offer redeployment opportunities to staff outside of their department where it is apparent that no suitable opportunities exist within the Directorate(s)

reorganising. In these circumstances, all Directorates must send to the Recruitment Manager on a regular basis:

- (i) details of all their unfilled vacancies (including job descriptions and person specifications).
- (ii) details of posts that become vacant within 7 days of the vacancy arising.
- (ii) full details of those staff who have not been redeployed within the department including their CV and stated preferences for future work.

It should be noted that departments should carry out the above throughout the year, as opposed to only during the 'budget process'. The redeployment of staff is a continuing requirement and includes the need, on occasions, to find suitable jobs for staff suffering from ill health, or staff on expiring fixed term contracts, or staff returning from extended parental leave or other leave.

9.7 Operating the Redeployment Register

The Recruitment Manager will place potentially redundant employees on the redeployment register and will liaise with the relevant Departmental HR Managers to match staff with jobs. Employees on the register will have priority over all other applicants and employees not on the Register in being considered for vacancies that are considered to be suitable for them. In these circumstances the member of staff will be interviewed in accordance with the Council's selection procedure as amended by this procedure. If suitable, they will be offered the post on a trial period. An employee who unreasonably rejects the offer of a suitable alternative post will forfeit their entitlement to a redundancy payment or, where payable, discretion will not usually be exercised to enhance the minimum statutory payments. The decision of the Head of HR on the reasonableness or not of a referral shall be final. If payment is denied then ACAS will be invited to arbitrate.

9.8 Offers of Suitable Alternative Employment

Reasonable efforts will be made to redeploy employees displaced as a result of reorganisation, and all suitable alternatives will be explored. Bearing the above in mind, it may not always be possible to make an alternative job offer. No guarantees to find an alternative job can be given and if a successful redeployment has not been achieved by the time the notice given has expired, the employee will immediately leave the Council's service.

9.9 Protection of Pay and Conditions of Redeployment

Employees will be given protection of basic salary up to 2 grades where they are redeployed to a lower graded post. The salary will be protected on a marked time basis whilst the employee is in the new post. A marked time arrangement would mean that there would be no incremental progression or annual pay award until the top of the spinal point for the grade of the post has caught up with the existing salary. For all reorganisational redeployments no other conditions or noncontractual payments will be protected, e.g. car allowance, overtime, unsocial working hours, shift allowances, hours, holidays etc. Any allowances or conditions that are applied will be those necessary to carry out the 'new' job. If the new job involves relocation, expenses will be paid in accordance with the appropriate national/local conditions of service.

If the employee is subsequently appointed to another post through the normal recruitment process or if the new post is regraded through job evaluation the protected payment will cease or be proportionately reduced as appropriate. The 'outgoing' Department will meet the cost of the protected payment during the trial period. The receiving Department will meet the cost of the protected payment for the remaining time. The position of those employees who have been redeployed and whose salary is protected will be reviewed by the Recruitment Team in conjunction with the Departmental HR Manager on a regular basis for the duration of the trial period. The purpose of this is to establish whether it is possible to transfer the member of staff to a suitable post graded at the same level as their original post.

During the period of protection, the onus will be on the employee to secure a job at the same grade as the post from which they were displaced. During this period, they will receive priority consideration through guaranteed interview where they meet the essential requirements of the person specification. The employee should avail themselves of the weekly Job News and should maintain a regular dialogue with their line manager concerning their position.

10 TRIAL PERIOD

Where an employee is appointed to a new job through assimilation by assessment or through redeployment, a trial period of between 4 weeks (the statutory minimum) and six months will operate. The purpose of the trial period is to allow both the employee and manager to determine the suitability of the employee for the post. Good practice requires that objectives are set at the start of the trial period, immediate training, support and assistance needs are assessed and a plan to meet them drawn up. If at any time during the trial period either party has reasonable

grounds to consider that the redeployment will not be successful, the matter must be referred to the attention of the appropriate manager who in consultation with the Human Resources and Staffside will decide what further action should be considered including whether the trial period should be terminated or whether consideration of additional training should be considered. In this event the employee will be placed back into the redeployment pool. Inherent in any trial period is a risk that the trial might be unsuccessful and this is not enough to justify not proceeding with an appointment.

11 **VOLUNTARY SEVERANCE SCHEME/EARLY
RETIREMENT/REDUNDANCY AND PAYMENTS**

- 11.1 Where the necessary organisational changes cannot be achieved through redeployment, the Council can make available severance arrangements under its discretionary powers (except for teachers). These arrangements will be as published by the Council from time to time.
- 11.2 Where redundancy is considered on a voluntary basis each case should be assessed on its merits, having regard to financial implications. The Council reserves the right to refuse voluntary redundancy to any employee.
- 11.3 Approval of voluntary severance is subject to assessment by the Director of Corporate Resources.

12. **DISABLED EMPLOYEES**

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.

13. **EMPLOYEES ON MATERNITY AND SICK LEAVE**

Pregnant employees, employees on maternity leave or employees on 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. **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.

15. **SUPPORT AVAILABLE TO STAFF FACING REDUNDANCY**

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 and it could involve, for example, practical and affordable retraining, interviewing skills, CV completion guidance, explanation of pensions and benefits etc. Departmental HR staff and the Corporate Human Resources Unit are available to give advice to employees and to help them overcome problems.

16. **MONITORING**

Monitoring of employees made redundant will be undertaken by the Corporate Human Resources Unit in order to provide information on gender, race and disability. Departmental HR Managers will complete monitoring forms on a regular basis. These will be collated by the Corporate Human Resources Unit and presented regularly to Members and Senior Managers.

17. **COMPLAINTS**

- 17.1 Where an employee is unhappy about the outcome of the assimilation and redeployment process, they should write setting out their concerns to the Head of Human Resources within five working days of receiving the decision

On behalf of the Council, the Head of Human Resources will consider the concerns expressed and provide a written response. The Grievance or Harassment Procedures will not be used to address complaints relating to redeployment. Redeployment complaints will address areas of:

- Failure to be offered a trial period in a particular post;
- Failure to be included within a particular ringfenced 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.

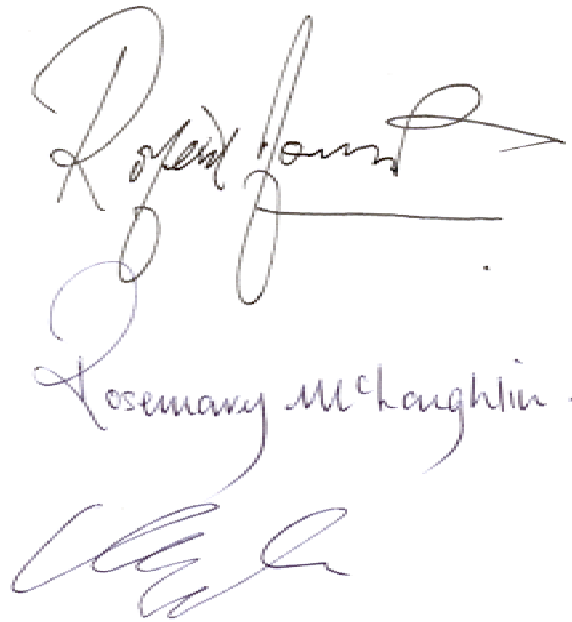
There will be no internal right of appeal beyond this stage. In the event of an employee being dismissed on the grounds of redundancy they have a right of appeal.

18. **RECORD KEEPING**

- 18.1 In respect of every decision and act a record must be kept recording -

- 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

18.2. The purpose of creating the records is to demonstrate the transparency of the process and to be able to assess the strength of legal challenges. Therefore the records must be full, accurate and created as soon as possible after the decision is made or the step taken. The records themselves must be properly kept. All records compiled by managers must be filed with the respective Departmental HR Managers.



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