

CONTRACTUAL CHANGE PROCEDURE (Change by Mutual Consent/Dismissal & Re-engagement)

1 Scope

- 1.1. This procedure forms part of the Council's overall Organisational Change Policy. Readers are advised to familiarise themselves with the Organisational Change Policy before using this procedure and other supporting documents.

2 When Does this Procedure Apply?

- 2.1 This procedure is used where the role or terms and conditions of a job(s) will change to a significant extent, and a change to the employment contract is needed.
- 2.2 The most straightforward way to make changes is by 'mutual consent' (i.e. agreement on both sides) and this will be the primary objective throughout the process. Where agreement is achieved, it must be 'voluntary' (i.e. coerced 'agreement' is not an agreement at all).
- 2.3 Where agreement is not reached, then the employee's existing contract can be terminated, with the appropriate contractual notice. The employee must be offered a new contract (that contains the new terms and conditions) and it must start immediately after the old contract ended to avoid a break in service.

3 Consultation

Note: Approval to consult on contractual change must be obtained from the Service Director, Legal Service, HR & OD, the Director of Finance & Resources and the Chief Executive before consultation begins.

- 3.1 Collective Consultation with the recognised trades unions must take place in situations where 20 or more 'dismissals' are foreseen. Please note: the 'redundancy' process is followed for collective consultation purposes.
- 3.2 Managers need to set an appropriate timescale for consultation. This will normally depend on the size and complexity of the proposed change; however, consultation *must* be started in line with the following statutory requirements:-

Number of jobs under threat of redundancy	Notification required to Department for Business, innovation and skills:	Collective consultation required:	Consultation should begin:
Less than 20	No	No	As soon as is practical (this will not be less than 4 weeks before the first dismissal takes effect)
20+	Yes, at least 30 days prior to first dismissal.	Yes	At least 30 days prior to the first dismissal taking effect.
100+	Yes, at least 90 days prior to first dismissal.	Yes	At least 90 days prior to the first dismissal taking effect.

Note 1: The numbers of employees above is based on an estimate of the number of positions where 'dismissal' may be the outcome. Even if there is confidence that actual 'dismissals' will be fewer, this does not alter the starting total.

Note 2: The Director Human Resources & Organisational Development is responsible for notifying the Secretary of State of the Department for Business, Innovation & Skills of proposals which involve 20 or more potential 'dismissals' arising from a reorganisation i.e. if there are also potential redundancies, these should be notified together.

3.3 Proper consultation requires that enough information is provided to enable the trades unions and the affected employees to understand the reasons for the proposals. Consultation may begin when the manager is able to provide the following information in writing:-

- the reasons/rationale for the proposed change. This must be to meet a real business need with sound economic, operational, organisational or administrative grounds;
- the revised working arrangements required to meet this business need;
- the chosen method of achieving the business need; which must be appropriate to achieving the required results;
- how the advantages to the business will well outweigh the disadvantages to the individual; and
- when the changes are proposed to take place.

4 Individual Consultation

4.1 Once the affected employees have been identified, managers will offer to meet with them individually; informing each employee of:-

- the change and how it is likely to affect him/her personally; and
- the reason(s) the change is necessary

Managers will ask the employee for their views and will consider any alternative proposals or ideas put forward. Employees have the right to be accompanied by a trade union representative or work colleague at any individual consultation meeting.

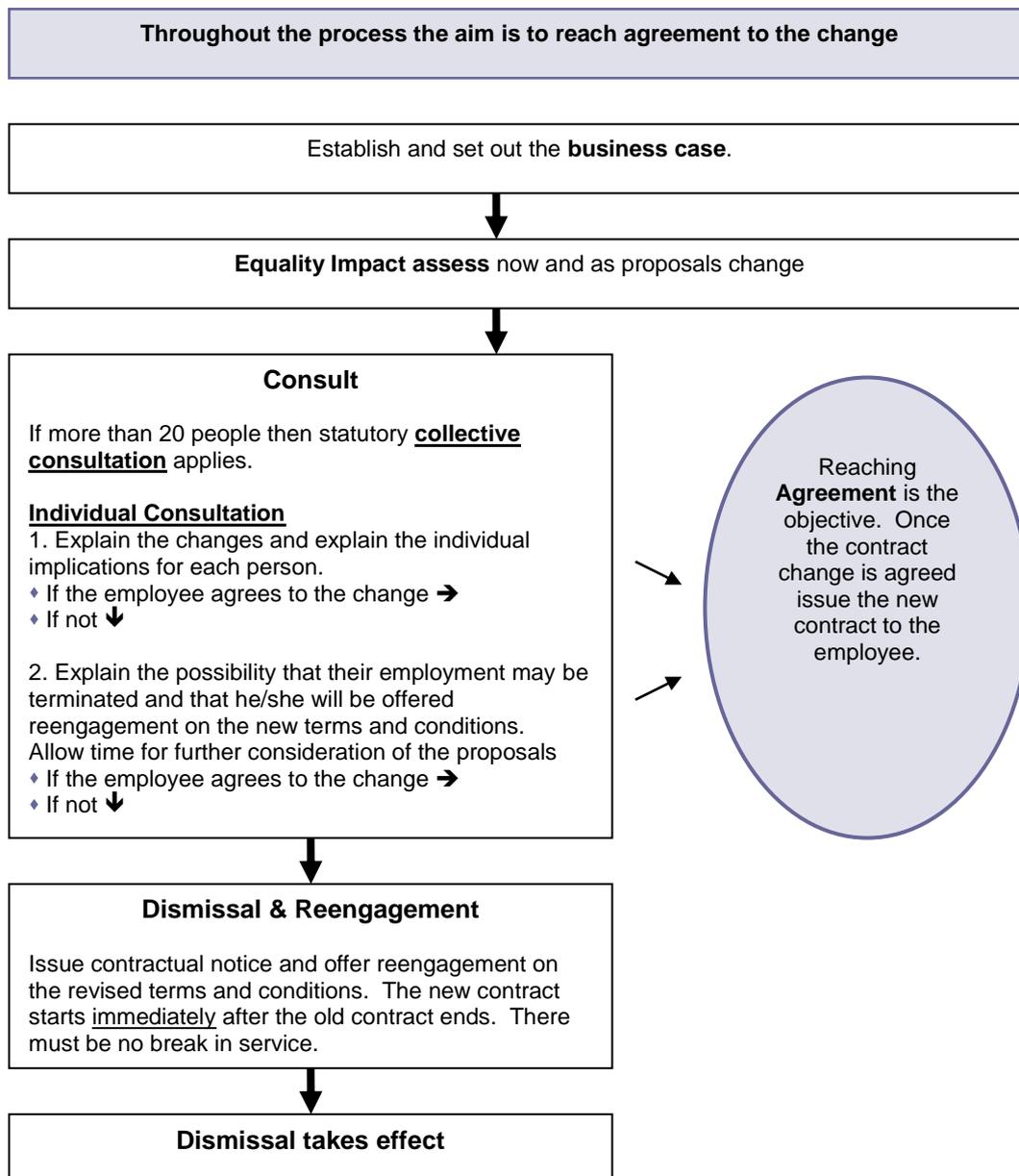


Diagram 1 (above): Summary of the Council's Contractual Change Process

- ◆ **Where agreement is reached** the manager will confirm the changes agreed in writing (liaising with HR).
- ◆ **Where agreement is not reached**, the manager will explain the possibility that the employee's contract may be terminated and that if this happens, he/she will be offered reengagement on the new terms and conditions. Managers should be clear that this decision has not yet been taken and allow further time for the employee to consider the proposal.

- ◆ **Where agreement is then reached** the manager will confirm the changes agreed in writing (liaising with HR).
- ◆ **Where agreement is not reached**, the manager will proceed to dismissal and reengagement (see section 6 below).

6 Dismissal & reengagement

6.1 The manager will invite the employee to a meeting at which the employee has the right to be represented by a Trades Union Representative or workplace colleague. The managers should check a final time to find out if the employee is agreeable to the change to their contract.

- ◆ **If agreement is reached** the manager will confirm the changes agreed in writing (liaising with HR).
- ◆ **Where agreement is not reached**, the manager will give the employee a letter that confirms:-
 - that the employee's existing contract will end with contractual notice and their last day of service on their existing contract;
 - that the employee is being offered a new contract on the revised terms and conditions to commence immediately the existing contract ends;
 - the employee's right of appeal

6.2 Employees may accept their new contract at any point up to the date the new contract starts.

7 Variations to the process

7.1 The Council reserves the right to vary this process at its absolute discretion if necessary because of the number of staff involved (e.g. where a contractual change affects the entire workforce). Any amendments to the process will be fair and comply with the legislative framework.