



Leicester  
City Council

**WARDS AFFECTED**  
**All**

## **FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**

**Cabinet**

**13<sup>th</sup> December 2010**

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### **Revised Organisational Review and Redundancy Policies**

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#### **Report of the Director of Human Resources**

#### **1. Purpose of Report**

- 1.1 The purpose of this report is to present to Cabinet the new Organisational Review and Redundancy policies for approval.
- 1.2 These documents form part of a series of new policies designed to create a smaller and simpler rule book. Following approval of the draft documents by SMB and the Cabinet Lead for Community Cohesion and Human Resources earlier in the year, consultation has taken place with the recognised trade unions.

#### **2. Summary**

- 2.1 These policies, which are attached at Appendix 1, are closely associated but have separate and distinct purposes:
  - The Redundancy policy establishes effective and clear means by which the Council can bring about reductions in its workforce whilst complying with its legal and contractual obligations as an employer in respect of the impact that it would have on its workforce and individual employees.
  - The Organisational Review policy will establish an effective, business-focussed approach to change management whilst conducting the process in a positive yet sensitive manner. It is particularly important during the current period of financial constraint so that we may retain the best calibre of staff with the right skills set and approach to deliver services in what can be, at times, a stressful process
- 2.2 Both policies aim to set out as simply as possible what needs to be done, when and with whom from the point at which organisational change or reductions are being contemplated, through to resolving the impact on the workforce.
- 2.3 Consultations with the recognised trade unions representing the employees who would be covered by these policies took place during the period June to September. Those consultations resulted in agreement in the most part. There were however some areas

where the trades unions were unable to commit fully to the revisions being introduced into the policies. These are set out in this paper for Cabinet's consideration.

### **3. Recommendations (or OPTIONS)**

#### **3.1 That Cabinet**

Consider the points raised in this report in relation to:

- In the proposed Redundancy Policy, trial periods,
- In the proposed Organisational Change policy, consultation arrangements and grading appeals,
- Any additional statements submitted separately by representatives of the trade union side; and
- In the light of those considerations agrees to the adoption of the new policies with immediate effect

### **4. Report**

#### **(a) Redundancy Policy**

- 4.1 The revised Redundancy policy covers all circumstances where a reduction in the workforce is required. It therefore replaces the City Council's guidance to managers on handling redundancies and its policy on Redundancy, Redeployment and Protection of Earnings (Appendix 1A of the Local conditions of Service).
- 4.2 The purpose of this policy is to provide clarity for management and staff on how reductions in the workforce will be brought about. In law, a redundancy is clearly defined and covers those situations where an employee is dismissed because the requirement for a service to be provided or the place from which it is provided ceases or diminishes to the point where workforce reductions become inevitable.
- 4.3 In setting this out, the policy differentiates between the two main types of redundancy situations – those involving a reduction in the number of employees in one category where specific selection criteria is used or as a result of an organisational restructuring exercise within a service area which results in fewer posts.
- 4.4 Copies of the draft revised policy and the draft Organisational Review policy were forwarded in April of this year to all trade unions representing employees who would be covered by the policy, namely all Leicester City Council employees excepting:
- Staff employed under JNC for Chief Officers' conditions or statutory officers
  - Any one employed by schools or colleges
- 4.5 A series of meetings was held at which the contents of the revised policies were considered in detail, points raised for clarification and questions answered. At the end of the process there was a high degree of agreement and understanding on both policies and how they would be used operationally. As a result of those discussions minor changes were incorporated either to add clarity or improve the processes followed. There were points however about which the trade union side stated that they

were fundamentally unable to accept and for which there was no possible solution. Officers confirmed that these would be brought before Cabinet and, in considering the document as a whole, invited to resolve the differences going forward. The following paragraphs set out the points in relation to the Redundancy policy. Those relating to the Organisational Review policy are set out in paragraphs 4.17 to 4.22.

- 4.6 **Trial Periods:** The revised policy contains provision for trial periods in redeployment situations. Reflecting operational experience the document allows for a maximum of 12 weeks, where deemed appropriate. The law on trial periods provides for 4 weeks for a trial period. During the consultation process, the trade unions affirmed their belief that a trial period of 12 weeks would be unreasonable if the employee felt it to be unsuitable and wished to leave with a redundancy payment.
- 4.7 Whilst stating that the 4 week statutory minimum would be the norm, practically some jobs might require more complex retraining or longer time for the employee to experience the full gamut of the job before deciding on its suitability or otherwise. Safeguards of mutuality of agreement prior to commencement with confirmation of the offer in writing; opportunity for review during the trial period and an appeal process against withholding of redundancy would protect both sides.
- 4.8 **Period of salary protection:** The revised policy provides for protection of earnings for any employee who is redeployed to a post on a lower level of pay. This is limited to a maximum of 2 grades below the substantive grade of the post holder's existing post. Protection would last for a period of 12 calendar months at the fixed salary rate received immediately prior to redeployment.
- 4.9 The trade unions felt that this represented a materially worsening of their members' conditions of service as previously protection of earnings had been set at a maximum of 24 months or until earnings level of the redeployed post equalled or overtook the actual protected pay, whichever was the sooner. The trade unions argued that the two year period was generally accepted as the norm and employees needed that amount of time to adjust financially to a lower level of income.
- 4.10 However, it was argued that levels of pay protection generally in employment and specifically in local government had reduced in recent years. The main reasons for this were cited as being attributed to the following:
- In law lengthy periods of pay protection could give rise to pay inequality leading to claims of unequal pay for the same work or work of equal value, and
  - Work place ill will within work groups where differential pay levels for the same job were at the heart of the issue.
- 4.11 When consulted on this particular issue elected members were strongly of the view that the period of salary protection should be retained at its current level. The policy has therefore been amended to reflect this view.
- 4.12 **Decision:** Cabinet is asked to give direction on the maximum periods for trial periods.

**(b) Organisational Review Policy**

- 4.13 The revised Organisational Review policy covers all circumstances where major change is required in the organisation and in the delivery of services. It therefore replaces the City Council's Protocol on Organisational and Staffing change (Appendix R).
- 4.14 The purpose of the policy is to provide clarity for management, trade unions and staff on how organisational change within Leicester City Council will be conducted. It sets out the circumstances in which the principles and processes of the policy would be applied. The following, though not an exhaustive list, are examples of when the policy would be used:
- A new service is created within the City Council that incorporates some or all of existing service area(s)
  - Two or more service areas are integrated into a new one requiring the need to unify service delivery and support
  - Major change is required within a service area brought about by changes in funding streams or other financial constraints resulting in jobs combining and/or reducing
  - Change to or streamlining of services delivered is required in response to changes to or by the introduction of new initiatives driven by internal policy change or external requirements placed on the City Council
- 4.15 For the avoidance of any doubt the policy also sets out clearly those circumstances deemed not to constitute organisational change and therefore exclude its use. Examples include minor change to the job description of a post or posts; grade changes as a result of management action or a request by an employee for a review of the grade of a job; a reduction in the size of the workforce in a specific section or work area; transfer of a function resulting in change of line management or relocation of activities within a team
- 4.16 The policy applies to all Leicester City Council employees, with the exception of employees in schools, appointed directly by school governing bodies who are to be encouraged to adopt a similar policy.
- 4.17 From the combined consultation meetings on the Redundancy and Organisational Review policies there were three issues on which agreement could not be reached with the trade unions in relation to the Organisational Review policy. These are set out in the following paragraphs.
- 4.18 **Consultation arrangements:** By differentiating between which types of change are or are not covered by the policy, the consultation process is clearly described. Consultation on organisational changes would be conducted with the whole workforce as a group affected by the change and their representative trade unions, not with a representative few acting as a liaison group on behalf of the whole workforce. The trade unions however view this as a divisive mechanism suggesting that it would produce a parallel process for consultation (with trade unions and staff) that would create more work for themselves and the Council and make the process over complex and resource draining.
- 4.19 In response it was argued that the current methods of consultation, including preparation of business case executive summaries for branch secretaries, pre-

assignment meetings and representative liaison groups, were universally considered the least favoured means of consultation; that the representative groups were more often self-selected for personal reasons engaging in drawn out, repetitive meetings arguing over the minutia of a proposal with the result that the process was drawn out and created uncertainty and anxiety for those affected. There was no legal basis on which to retain these means of engagement.

- 4.20 The process now will be simple to understand by all participants and concluded in a planned, timely fashion whilst ensuring that the Council complies with its legal responsibilities towards collective arrangements and individual consultation with employees.
- 4.21 **Grading appeals:** Under the revised policy employees have the right to appeal against their proposed slotting in the new structure following implementation. The trade union have noted that appeal rights would no longer be available against the grade of a post in the new structure. This is because the threshold for determining that a job is unchanged has risen from 51% to 75% and so grades will be less likely to be affected sufficiently as to affect grade change for those employees. It is also the case that under the future maintenance arrangements for Job evaluation under the Draft Single Status Agreement, employees appointed to new/re-designed posts in a structure can request a fresh evaluation of the role after 6 months to check that the grade is correct based on how the job has in fact developed. This approach is good practice under Job Evaluation schemes and ensures that employees do not lose out but based on how the job has developed in practice rather than simply on a new job description. If dissatisfied, they still retain a right of appeal against this evaluation. This is felt to be a fairer approach.
- 4.22 UNISON have stated their opposition to this change as it would be in their view a worsening of their members' conditions of employment.
- 4.23 **Period of salary protection:** As part of the combined consultations on both the organisational review and redundancy policies, all the unions opposed the proposed reduction in the period of protection given to employees who accepted lower graded posts under organisational reviews from two years to one. The arguments for, against and members views on this proposed change are contained in paragraphs 4.8 to 4.11 of this report.
- 4.24 **Decision:** Cabinet is asked to give direction on the methods of consultation and appeal rights to employees affected by organisational change.
- 4.25 **Additional Comments made by UNISON:** In addition to the consultation process with the joint trade unions UNISON requested to submit an addendum with this report setting out a number of additional points they wished to bring to members' attention some of which had been raised and considered in the consultation process and are referred to earlier in this paper. However there were other points which were added after the completion of the consultation process and these are included at appendix 2 to this report. Management's comments and/or responses have been added in red for Cabinet's consideration.
- 4.26 Cabinet is asked to note these additional comments.

## 5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

- 5.1. **Financial Implications** There are no direct financial implications arising from this report however the proposals it contains on redundancy should ensure that the Council makes the most effective use of its limited resources when faced with making difficult workforce plans that involve reductions in the number of employees and in relation to Organisation Reviews, facilitate a more streamlined management of change process resulting in more timely and effective outcomes.

Alison Greenhill, Interim Chief Accountant, Financial Services; Extn 297421

### 5.2 Legal Implications:

The new Organisational Review policy will assist the Council to comply with its legal obligations in relation to consultation over, the operation of change processes and the treatment of individual employees affected by change. The Council should ensure that it complies with its legal obligations in relation to consultation.

The new Redundancy policy will assist the Council to comply with its legal obligations in relation to workforce reductions. The Council should ensure that it complies with its legal obligations in relation to trial periods.

The new policies will assist the Council in defending related Employment Tribunal claims.

Paul Atreides, Senior Solicitor, Legal Services; Extn 296368

## 6. Other Implications

| OTHER IMPLICATIONS            | YES/NO | Paragraph<br>Within Supporting information | References |
|-------------------------------|--------|--|------------|
| Equal Opportunities           | No     |  |            |
| Policy                        | No     |  |            |
| Sustainable and Environmental | No     |  |            |
| Crime and Disorder            | No     |  |            |
| Human Rights Act              | No     |  |            |
| Elderly/People on Low Income  | No     |  |            |

## 7. Background Papers – Local Government Act 1972

Trade Union and Labour Relations Act 1992  
Report to Strategic Management Board, March 2010

## 8. Consultations

Leicester City Council Joint Trades Unions

**9. Report Author**

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|                                      |                     |
|--------------------------------------|---------------------|
| <b>Key Decision</b>                  | No                  |
| <b>Reason</b>                        | N/A                 |
| <b>Appeared in Forward Plan</b>      | N/A                 |
| <b>Executive or Council Decision</b> | Executive (Cabinet) |

**LEICESTER CITY COUNCIL**

**ORGANISATIONAL REVIEW POLICY**



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# **ORGANISATIONAL REVIEW POLICY**

## **1. INTRODUCTION**

- 1.1 Leicester City Council operates in a constantly changing environment. As a major organisation within the Leicester Strategic Partnership, we must be able to respond to both national/external initiatives and internal demands in order to deliver continuous improvement to services in a way that achieves best value.
- 1.2 The Council will inevitably need to make changes to or restructure services from time-to-time. In doing so, it will manage change in a positive and effective way.
- 1.3 At the same time the City Council will ensure that there is no detrimental impact on the level of service provided as a result of structural change introduced in accordance with this policy. It will do so by undertaking any reorganisation, depending on the scale of exercise, in a timely fashion, regularly monitor the progress of reviews and investigate and address any undue delay detected in them.
- 1.4 The overriding principle underpinning this policy and associated procedures will be the ability of the City Council to ensure that it employs and retains the right people with the right skills in the right jobs who have the capacity to deliver outcomes for present and future users for its services.

## **2. POLICY STATEMENT**

- 2.1 The City Council will maintain security of employment wherever practical. The City Council will consider measures to minimise the loss of jobs, including, but not exclusively:
  - Use of natural wastage/turnover
  - Restrictions on recruitment and the use of short term temporary or fixed term contracts
  - Offering retraining to staff where practical
  - Considering requests for reductions in hours
  - Re-organising work patterns or working hours
  - Reducing the number of agency workers, particularly in areas where potential redundancies have been identified
- 2.2 The City Council will consult with employees and their recognised trade unions and afford them the opportunity to influence the shape of any reorganisation undertaken. Consultation will be made on a collective and individual basis and in line with employment legislation in relation to the circumstances.

## **3. SCOPE OF THIS POLICY**

- 3.1 This policy applies to all Leicester City Council employees, with the exception of employees in schools who are appointed directly by school governing bodies, who are encouraged to adopt a similar policy.
- 3.2 This policy covers all circumstances where major change is required in the organisation and in the delivery of services. It therefore replaces the City Council's existing protocol on organisational and staffing change (i.e. Appendix R).

3.3 This policy should be read and followed in conjunction with other relevant, but separate policies such as the following:

- Redundancy Policy
- Redeployment Policy
- Recruitment and Selection Policy
- Equality and Diversity Policy

#### 4. ORGANISATIONAL CHANGE

4.1 **Definition:** An Organisational review takes place in circumstances where the current structure is no longer considered to be fit for purpose and requires redrawing to create a structure which will meet the new requirements of that service both now and in the future. This could result in new roles, changed or redesigned roles and sometimes a reduction in the number of jobs.

4.2 Organisational reviews will be conducted in a manner and at a pace that will bring about the required changes within an acceptable timeframe that will be established at the start of the process. Depending on the scale of the restructuring exercise embarked upon, it would normally be expected that a review would be completed within a period of four weeks but not more than three months

4.3 **Exclusions:** For the avoidance of any doubt the following circumstances **do not** constitute organisational change within the meaning of this policy:

- Minor changes to the job description of a post or posts that does not change the grade of the post(s), the relative position within the organisational structure or the reporting relationships of the post(s) with other posts, within the City Council.
- A proposed change in the grade of a post for an individual employee, either as the result of a change introduced by management or at the request for a grade review by the post holder. In such circumstances a new Job Analysis Questionnaire (JAQ) would be prepared and submitted for evaluation
- Changes in the activities undertaken within a team or service area to meet changing service delivery needs that do not affect job roles or organisational/reporting arrangements within the team/service. This could also include the relocation of employees work base or locality of working on a day to day basis
- Transfer of an individual employee, function or service from the line management of one manager, head of service or director to another without any change in job content or in the organisational structure of the function or service to be transferred.
- Fewer jobs of a particular kind in a specific work area or section whether or not the effect of the reduction leads to potential redundancies or the deletion of vacant posts. This could lead to a single redundancy or a number of redundancies. In this circumstance, the procedure set out in the City Council's Redundancy Policy should be followed

4.4 **Organisational Review and Restructuring:** In such cases, the City Council will meet and consult with union representatives, the staff affected by the proposals and individual employees as appropriate at the earliest stage possible to determine how best the change(s) might be achieved. In addition the Council will communicate with the unions and workforce throughout the process. This will include some or all of the following ways:

- Meetings and/or briefings with groups and/or individuals
- Newsletters; or

- Letters to individuals

The consultation process and responsibilities on the City Council are explained in more detail in section 5 below.

- 4.5 The City Council will endeavour to provide training/development required for the acquisition of any new skills, for example through guidance, coaching or a formal course, where practical.
- 4.6 The City Council will, where it is deemed necessary, seek to change employees' contracts of employment through the means of either collective or individual agreement, depending on the particular circumstances. Where, as a consequence, contractual changes are to be made the affected employees will be given the relevant notice of any variation in their individual contract.
- 4.7 The following are examples of situations where major organisational change would be carried out in accordance with this policy. This is not an exhaustive list but it typifies the scale and circumstances in which the principles and processes of this policy would be applied:
- A new service is created within the City Council that incorporates some or all of existing service area(s)
  - Two or more service areas are integrated into a new one requiring the need to unify service delivery and support
  - Major change is required within a service area brought about by changes in funding streams or other financial constraints resulting in jobs combining and/or reducing
  - Change to or streamlining of services delivered is required in response to changes to or by the introduction of new initiatives driven by internal policy change or external requirements placed on the City Council
- 4.8 **Operating Guidelines:** A document to accompany this policy will be produced that will give greater clarity and explanation of the circumstances in which this policy would or would not apply. This guidance will also include a range of criteria that would need to be met to distinguish when the application of a restructuring exercise in accordance with this policy would and would not be appropriate.

## 5. MANAGING THE PROCESS

The following paragraphs set out the process that will be followed to implement organisational change. The manager leading the review, who will be referred to as the Lead Manager, or a person(s) nominated by that manager will ensure that the process is complied with in full:

- 5.1 **Plan for Change:** At the first indication of the need for organisational change that is significant, or where workforce reductions may be possible, the Lead Manager should map out the overall proposed time frame over which the change is to take place, taking into consideration the financial imperatives or implications and the likely impact on the affected workforce and draw up an action/project plan based on those considerations. Where major change is likely the Lead Manager should consider establishing a project team to manage the change process to include HR, Finance, Legal and business support specialists as appropriate. As part of the planning process the Lead Manager may, as part of the normal day to day business of the service area, seek and include the views of the workforce employed within the service area.
- 5.2 **Prepare a Business Case for Change:** The Lead Manager should, in consultation with a HR Adviser, prepare a fully costed business case for the change process. The HR Adviser will comment on the proposals and give advice to the Lead Manager on the proposed structures,

posts, associated terms and conditions, together with the HR implications going forward and the appropriate consultation process. The Lead Manager should also consult the service's Finance Adviser on the funding for, costs of and financial implications of the proposal. The resultant business case should be set out in full in a management report which should include the following key elements:

- The function and purpose of the area to be reviewed
- The reasons for the proposed change and the proposal in detail, explaining the rationale for the specific proposals
- The impact of the proposed change both on service delivery and the workforce by using the current LCC EIA pro forma
- Organisation structures showing both existing and proposed structures
- Outline Job descriptions for the posts within the review area before and after restructure, together with the provisional grades for posts, where available
- The workforce affected by the restructure and within scope of the review, including each employee's current post title, grade, employment status and length of continuous employment with the City Council
- Financial implications of the restructure including estimates of any possible contingent cost of workforce reductions.
- Arrangements for consultation with trade unions and staff and implementation set against a proposed time line.
- Arrangements for signing off the proposals and the final report at the end of the consultation stage prior to implementation

A template for the business case document is included as Appendix X to this document.(NB This is under preparation)

5.3 **Obtain Approval for the Proposed Changes:** It should normally be the case that organisational change would be led by the manager in whose area the change is to take place. The Lead Manager should ensure that appropriate approval is obtained prior to embarking on the process. For the purposes of this policy the Lead Manager would be one of the following officers:

- A Head of Service where the review is wholly within that officer's area of responsibility
- A Divisional Director where the review covers one or more service areas within the division, up to and including full divisional reorganisation
- The Chief Operating Officer or Strategic Director where the review covers change across several divisions.

5.4 The Lead Manager should obtain approval for the proposed restructure within the same hierarchy. For the purposes of this policy, the approval hierarchy will be as follows

- Where the Lead Manager is a Head of Service, the responsible Divisional Director, in consultation with the respective Strategic Management Board Director
- Where the Lead Manager is a Divisional Director, the respective Strategic Management Board Director in consultation with the Cabinet Lead Member
- Where the Lead Manager is the Chief Operating Officer/Strategic Director, the Chief Executive in consultation with the respective Cabinet Lead Member.
- In circumstances where major structural change is involved approval by Strategic Management Board and Cabinet should be sought.

- 5.5 **Consult the Trade Unions:** The Lead Manager, or nominated person, should write to the appropriate trade unions to signal the commencement of the process of consultation on the proposals for change. The letter should include the following information:
- The management report containing the full business case for the proposal
  - The outline time line for the consultation process, including any minimum statutory consultation periods required where there is a possibility of any redundancies
  - The outline implementation plan for the proposal
  - The likely affect on the workforce, including any possible job losses and possible redundancies
  - The date, time and venue for the first meeting with the trade unions at which the process will commence
- 5.6 Where it may become necessary for the City Council to consider redundancies as a result of any action in accordance with this policy, it will notify the trade unions and employees at the earliest possible opportunity of the reasons for the potential redundancy situation and of the City Council's proposals. This will be done by consulting employees and union representatives directly.
- 5.7 In any other circumstance where potential redundancies are being considered, consultation arrangements will not be pursued under this policy, but under the City Council's Redundancy Policy.
- 5.8 **Consult with Staff:** Following the initial consultation meeting with the trade unions the Lead Manager, or nominated person, accompanied by the review's HR Adviser, should arrange to meet with all the employees within the scope of the review process. Depending on the size, working patterns of and dispersal across the City of the workforce to be consulted, the Lead Manager should arrange a suitable venue or venues and time the meetings to allow all employees to hear the proposals first hand. At this meeting or series of meetings the Lead Manager should provide the employees with all the relevant information regarding the proposed restructuring sufficient for them to understand the proposal for restructuring, ask questions and to give any immediate feed back or counter proposals. Sufficient time, appropriate to the size and impact of the proposed changes, should be made available for meaningful consultation to be concluded and in line with minimum statutory time limits where possible redundancies could occur.
- 5.9 As an example, the information to be given at the initial consultation meeting should cover the following points. This should also be provided in writing using all appropriate media to ensure that every employee has access to it:
- Details from the business case, including organisation structures, job descriptions relating to jobs in the new structure
  - An initial time table for the major stages/events within the change process
  - Details of the consultation period and methods of communication for feedback/management's response to feedback
  - Proposed methods of determining the post filling process; ways of avoiding any possible redundancies, if appropriate; and
  - Arrangements for handling any appeals
- 5.10 **Consult with individual employees:** Where it is known that the proposal will result in fewer jobs, the Lead Manager, or nominated person, will arrange to consult with the individual employees who would be directly affected by the proposed job reductions. Even where the number of proposed job reductions requires collective consultations with trade unions to take

place, the Lead Manager should arrange to meet individually with the affected employees as soon as possible after the collective consultation has started. At these meetings the employees should be given the opportunity to be accompanied by a union representative or a work colleague. The Lead Manager should be accompanied by a HR Adviser. The Lead Manager should explain the process in detail to the employee and consult them on the proposal which might affect them. More details on this process can be found in the City Council's Redundancy Policy.

- 5.11 **Complete a Review Final Report:** Following the completion of the consultation period and taking account of any amendments to proposals as a result of those consultations, the Lead Manager will complete the Final Review Report, which will include the matters raised during the consultation process and management's response to them. The final report will also confirm the implementation plan for determining appeal arrangements, the post filling process, identification of employees declared at risk of redundancy, if any, and any other aspect of the transition from the present to the new working arrangements.
- 5.12 **Complete the post filling process:** Each review will be different in some respect of the post filling process, depending on the number of unchanged, changed and new posts together with the impact on salary grades. The Lead Manager will ensure that the process is completed in accordance with the implementation plan with due regard to fairness, openness and the entitlements of all staff, including those on maternity leave, with a declared disability or employment status
- 5.13 **Notify each employee within the review of the effect on them personally:** Employees appointed/transferred to a post in the new structure should receive written confirmation of the post to which they have been appointed, with details of any protection arrangements, appeal rights and ways to register the appeal. Employees who have not been appointed to a post in the new structure will be consulted on an individual basis and their trade union formally consulted on ways to avoid, mitigate the effect or avoid the need for compulsory redundancies in accordance with the City Council's Redundancy and Redeployment Policies.

## **6 IMPACT OF ORGANISATIONAL CHANGE ON THE WORKFORCE**

- 6.1 Determining how the restructuring process will impact on existing employees will form an important part of the consultation process with representative trade unions and/or individual employees to ensure that the process is both fair and transparent. These are described in the following sections. They should be applied sequentially to ensure that the impact on each employee or group of employees is considered only once within the process.
- 6.2 **Assimilation to the same job:** For some employees affected by a restructuring exercise there may be no or little change to their jobs, although they could be moved to a different service area or have new line management arrangements. They would simply transfer on an assimilated, or automatically slotted, basis to the new structure. For assimilation purposes the following criteria must be satisfied in the case of each employee:
- The grade for the job must be unchanged as a result of the restructuring exercise
  - There must not be more postholders than posts within the new structure; and
  - The job content must remain the same or be substantially the same in terms of accountabilities, activities and responsibilities, (i.e. normally at least 75% of the job content)

- 6.3 This group of employees should be provided with written confirmation that they have been assimilated, including an indication as early as possible of how the reorganisation may affect their working arrangements.
- 6.4 Where there are fewer posts following the restructuring exercise, selection will be made using a "ring fenced" assessment process. Ring fencing is described in more detail at paragraph 6.15 below.
- 6.5 Any employee(s) not appointed as a result of the ring fenced process will be deemed to be "displaced".
- 6.6 **Changed Posts:** Where, as a result of the restructuring process, the content of any job is changed by 25% or more, the following process will be followed. The post(s) in the new structure will be compared with the job of those employees not automatically assimilated to the new structure to determine whether it could be considered as potentially suitable alternative employment.
- 6.7 In order that a changed post could be considered as a potentially suitable alternative one it should contain all or the majority of the following attributes:

It should:

- Wherever possible, the major elements of the job should be the same as or similar to the existing job or require transferable skills which the individual employee possesses
  - Be within one grade, or an equivalent, above or below the employee's substantive grade, with other terms and conditions that are equivalent to or very similar to those the employee currently enjoys
  - Be of equal status, e.g. reporting lines and number of direct reports and contain major elements that are the same or similar in content
  - Be within a reasonable travelling distance or within the constraints of a contractual mobility clause
  - Have a working environment that is most suitable for or capable of being adapted to the needs of an employee's physical condition
  - Contain working patterns similar to those in the employee's current job or capable of adaptation to the employee's personal circumstances, e.g. primary carer responsibilities
- 6.8 Employees considered potentially suitable for appointment to a post or posts within the new structure by this process may be appointed to the new post following an appropriate selection process that would normally include an application, interview and an assessment process to determine whether they meet the job requirements. Wherever possible employees should only be interviewed once to determine whether they could be appointed to any of the jobs identified in the new structure.
- 6.9 Any employees appointed to the new structure by this process should be provided with written confirmation, including an indication as early as possible how the reorganisation may affect their working arrangements. Any employee(s) not appointed as a result of the ring fenced process will be deemed to be "displaced".
- 6.10 **New Posts:** In cases where completely new posts are created as part of a restructure, a job description and person specification will be developed for the post. They will then be forwarded to a job evaluation analyst who will evaluate and advise on the appropriate grade of the post.



- 6.11 If there are no employees who can be matched to the new post, the post may be advertised and filled, on a ring fenced basis, from the appropriate group of employees within the service area under review first, by the use of an assessment and selection exercise. This process would be followed only in the following circumstances:
- The post is considered to be a potentially suitable alternative appointment for an employee within a group matched to another job for which there are more candidates than posts and appointment to the post would reduce or avoid the risk of redundancy within that group (see paragraph 4.14 for the characteristics of a suitable alternative post), or
  - Making an appointment to the post would create an alternative job opportunity for an employee within the scope of the review process who was at the time deemed to be displaced and potentially redundant, but not eligible for appointment to the post in question, or
  - An appointment to the post would provide a vacancy elsewhere in the restructuring process which was considered to be suitable alternative employment for an employee under notice of redundancy from elsewhere in the City Council
  - The Lead Manager may also consider any other employees of the City Council, currently under notice of redundancy, for whom the post might be considered to be potentially suitable alternative employment, along with the other candidates within scope of the Review
- 6.12 Appointment to any post will be on merit and be based on the person specification for the job and the candidate's performance within the assessment and selection process.
- 6.13 Any employee(s) still not appointed as a result of this process will be deemed to be "displaced".
- 6.14 If the new post still remains unfilled following this process, the post will normally be advertised in line with the City Council's recruitment and selection procedure. Any internal or external candidates may apply for the post in fair and open competition.
- 6.15 **'Ring fenced' Recruitment:** A 'ring fenced' recruitment and selection procedure will normally be applied to any employees identified in the following circumstances:
- Where there are more employees performing the same (assimilated) job but there are fewer posts,
  - Where more than one employee is performing a substantial proportion of a post but there are fewer posts,(matched)
  - A new post in the new structure is deemed suitable for this process but there are more employees to be appointed than there are available posts
  - The post complies with the criteria set out in paragraph 6.7
- 6.16 In such cases, all the employees will be provided with the full job description and person specification for the post. They will then be invited to apply for the post in competition with the other employees who have also been 'ring fenced' to that post. This will involve the employee submitting an application and undergoing an assessment process, including where relevant tests, exercises etc as well as an interview, against the requirements in the person specification. An interview panel will comprise of at least two people, including the supervisor/manager of the post. The post will be offered on merit to the employee or employees who most closely meet the person specification, based on their performance in the recruitment process.
- 6.17 Any employee(s) not appointed as a result of this process will be deemed to be "displaced".

- 6.18 **Preference Exercises:** In some circumstances an employee may be deemed to hold a number of options as to where they could work following a restructure exercise. In such cases, a preference exercise may be undertaken to help facilitate the change. The employee(s) will be provided with the revised organisation structure and informed of the posts for which they are eligible to be appointed. The employee(s) will then be invited to indicate their preference for the posts in priority order for which posts they would like to be considered.
- 6.19 Where an employee expresses an order of preference, the Lead Manager will take into account the employee's order of choice wherever possible.
- 6.20 Depending on the outcome of the exercise, the employee(s) will then either be assimilated into posts or invited to undertake ring fenced recruitment, in line with the processes outlined in paragraphs 6.15 to 6.17 of this policy.
- 6.21 **Trial Periods:** In cases where appointments are made on the basis that the post in question was deemed a potentially suitable alternative one a trial period will be mutually agreed between the employee and management to determine the suitability of the job on either side. The duration of the trial period would be based on the nature and level of complexity/responsibility of the potentially suitable role and would be for a minimum of 4 weeks and would normally not exceed 12 weeks.

## **7. REDUNDANCY**

- 7.1 The City Council will manage change in a way that seeks to avoid compulsory redundancies wherever possible. However, in cases where fewer employees are required to carry out a particular kind of work and all of the above options have been exhausted, there may be occasions where the City Council has to make redundancies. In such cases, the City Council will try to reduce the number of redundancies to a minimum, whilst taking business needs into account.
- 7.2 Any employees who remain displaced as a result of the above processes will be informed that they are potentially redundant and the City Council will consult with them and their representative trade unions in accordance with the prevailing legislation and the City Council's Redundancy Policy. Any notices of dismissal on grounds of redundancy will not be issued until the consultation process has been concluded. At that point the employee(s) will be declared to be at risk of redundancy and entered into the City Council's redeployment programme

## **8. APPEALS**

- 8.1 The City Council will endeavour to implement organisational change fairly and transparently through consultation with its employees and their representative trade unions. If an employee wishes to appeal against her/his proposed slotting in the new structure the appeal should be heard before any change is implemented.
- 8.2 For appeals under this policy the following procedure shall operate:
- The employee should submit written notice of appeal within 5 working days of the date of being informed of the proposed outcome of the slotting in process.
  - The employee will be deemed to have been informed of the proposed outcome of the slotting in process 2 days, excluding Sunday, following the date of the notice setting out the proposed outcome.

- The notice of appeal should be in writing to the Director in whose division the restructure is taking place, stating the grounds on which the appeal is being made.
- The appeal will be heard as soon as possible by the Director, or a peer Director appointed by the Chief Operating Officer where deemed appropriate.
- Both the employee and management may make written submissions in advance of the appeal hearing not less than 3 working days before the hearing.
- At the appeal meeting management will explain the slotting decision process and present the evidence on which the proposed slotting decision was based. The appellant will then explain the grounds of appeal and present evidence to support the appeal grounds.
- The outcome of the appeal shall be final and binding.

8.3 The Director hearing the appeal will be advised by an HR Adviser and the employee may be accompanied at the meeting by a work colleague or a trade union representative. The manager leading the slotting process will also attend.

8.4 The outcome of the slotting appeal should normally be announced at the end of the hearing or within a reasonable time but no later than immediately after all associated slotting appeals have been considered.

8.5 An employee may lodge an appeal against selection as redundant as a result of organisational change in accordance with the relevant procedure within the City Council's Redundancy Policy.

8.6 There would be no right of appeal in respect of the grade of any different job that resulted from an organisational review. However following six months in the job after implementation of the restructuring an employee may request an evaluation of the grade of the post and would have a right of appeal at that stage.

## **9. OFFERING SUITABLE ALTERNATIVE EMPLOYMENT**

9.1 In cases where an employee with more than one year's service is in a potential redundancy situation following a restructure, the City Council will seek to redeploy them to another post within the current or another area of the City Council, irrespective of the number of hours worked. Full details are given in the City Council's Redundancy and Redeployment Policies & Procedures.

## **10. EQUALITY IMPACT ASSESSMENT**

10.1 The Lead Manager will ensure that an Equality Impact Assessment, or EIA, is completed on the impact of the proposed change to the service area under review both in terms of its impact on the staff affected and on the service provided in accordance with the current policy and guidance in force in the City Council. The process undertaken and the outcome of the Assessment will form an integral part of the Final Review Report when produced.

## **11. MONITORING AND REVIEW**

11.1 This policy will be reviewed annually to ensure that it remains compliant with relevant legislation.

**LEICESTER CITY COUNCIL**

**Redundancy Policy**

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## 1. Introduction

- 1.1 It is inevitable that the City Council will be affected by the need to respond to a range of catalysts for change, emanating from central government, partner organisations or from residents of Leicester, to provide more customer-orientated, value for money services. This means that changes to the workforce may sometimes be required because of budget cuts, organisational reviews or restructuring, new legislation or changes to alternative methods of service delivery. This may involve individual posts, part or whole service areas.
- 1.2 The Management of Change policy is designed to deal primarily with organisational reviews where there is a fundamental change to the design of the structure of a section or service. This procedure is designed to deal with redundancy situations.

## 2. Definition of Redundancy

- 2.1 Redundancy is defined in law. An employee is deemed to be redundant if the reason for the employee's dismissal is attributable wholly or mainly to the fact that their job is no longer required. In Leicester City this may happen when the Council ceases or intends to cease to provide a particular service or activity in full or part and, as a result, requires fewer employees.

## 3. Scope of the Policy

- 3.1 This policy applies to all Leicester City Council employees, except for the following categories:
- Staff employed under JNC for Chief Officers' conditions or statutory officers
  - Anyone employed by schools and colleges

This is because they are covered by separate respective policies.

## 4. Consultation

- 4.1 At the earliest opportunity, meaningful consultation should take place with the recognised trade union/s and the individual employees affected
- 4.2 **Collective consultation** with the recognised unions is legally required where the Council is proposing to make 20 or more employees redundant over a period of 90 days or less, within a minimum of:
- 30 days before the proposed date of dismissal where 20-99 employees are involved, or
  - 90 days before the proposed date of dismissal where 100 or more employees are involved.
- 4.3 The purpose of the consultation is to explore ways to avoid or reduce the number of redundancies where practical or to mitigate the consequences. This will involve consulting the union/s on proposed selection criteria.
- 4.4 The Review Lead Manager will write to the Branch Secretaries of the relevant trades unions setting out:
- The reasons for the proposals
  - The numbers and types of potentially redundant posts
  - The total number of employees of this type employed at the establishment in question
  - The proposed selection criteria

- How the dismissals would be carried out and over what period they would take effect
  - The method of calculating any additional redundancy payment (above statutory redundancy pay).
- 4.5 The consultations will be conducted 'with a view to reaching agreement' where possible. However, there will be occasions where agreement is not possible.
- 4.6 Where fewer than 20 redundancies are proposed the Council will continue to consult the union/s on those proposals for a minimum of 30 days as part of constructive industrial relations.
- 4.7 The Council will consider the appropriateness of the following potential measures where redundancy situations arise with a view to avoiding or minimising redundancy:
  - Reducing employee numbers through labour turnover
  - Restricting or freezing external recruitment, where appropriate
  - Reducing the number of agency staff in areas where redundancies had been identified
  - Redeployment to suitable posts in other parts of the organisation covered by agency staff
  - Seeking volunteers for redundancy, from the group/s affected.
  - Redeployment to other posts within the organisation with a trial period, where appropriate
  - Reducing or eliminating overtime working (where appropriate), especially in affected areas
  - Potentially seeking volunteers for part-time working, reduced hours or job sharing.
  - Practical suggestions from trade unions/employees
  - If appropriate, seeking volunteers from areas of work where staff possess transferable skills or experience (where practical)
- 4.8 **Consulting individual employees** who face potential redundancy is essential. Individual consultation should commence as soon as practicable after collective consultation has commenced. The employee should be given the opportunity to be accompanied by a union representative or work colleague at each stage of this process.
- 4.9 The immediate line manager should normally conduct the individual employee consultation accompanied, if necessary, by an HR adviser.
- 4.10 The process to be followed should contain the following steps:
  - **An initial meeting** at which the employee should be advised that they are at risk of redundancy and the reasons for this; the proposed process for selection and how any redundancy process would be handled. They should be given the opportunity to put forward any alternatives to redundancy and to raise any concerns, comments or objections to the proposals. At this meeting, the employee should be given a letter setting out the above points and inviting them to put forward any reasons why they should not be made redundant. The employee should be given the option of setting out their reasons in writing or at a further meeting, within a reasonable time frame
  - **A follow-up meeting**, if requested, should be arranged at which the employee would be invited to present the reasons why they believe they should not be made redundant, any objections to or alternatives to redundancy.
  - **A formal response** to the employee. This will include the line manager's consideration of any alternatives, issues or concerns raised by the employee giving reasons why any alternatives to their redundancy have not been accepted, where this is the case. This response should be given in writing but may, if deemed appropriate, also be given at a further final consultation meeting.

- 4.11 During individual consultation the option of redeployment should also be explained to the employee.
- 4.12 Following the consultation process, if selected for redundancy under the ensuing process as set out in either section 5, the employee should be seen again and this should be explained to them sympathetically by their line manager accompanied by an HR Adviser. The employee should receive information on the redundancy process and a redeployment interview (and skills profile) should be offered. At the same time the employee should be made aware of the availability of other means and methods of support and personal or outplacement counselling. The employee should then be sent regular copies of the vacancy bulletin.
- 4.13 The outcome of the process should be confirmed to the employee in writing advising them of their right of appeal with instructions to whom the written notice of appeal should be made, the time frame in which to submit the notice and the grounds for appealing. Appeal arrangements are described in more detail in section 7.

## **5. Selection for Redundancy**

- 5.1 There are essentially two main types of redundancy situations:
- a) Those involving the reduction of numbers within one category of post that involves the use of selection for redundancy criteria (Category A)
  - b) Organisational restructurings within a service area (Category B)

### **Selection for Redundancy – Category A**

- 5.2 Where it is necessary to reduce the number of employees in a specific job category, the recognised trade union/s for that occupational group will be consulted on the proposed selection criteria. When drawing up the list of the criteria to be used some or all of the following criteria may be utilised to aid selection.
- Length of service
  - Attendance records (excluding disability or maternity-related sickness absence, parental and dependency leave or other agreed circumstances)
  - Disciplinary records (excluding expired warnings)
  - Skills, competencies, qualifications
  - Performance records.
- 5.3 In using these criteria the Council will ensure that they are applied consistently fairly, objectively and will not discriminate either directly or indirectly against any employee because of their age, sex, race, disability, sexual orientation, religion or belief or any other protected characteristic.
- 5.4 Appraisals may be used as a source of objective evidence in relation to competencies and performance standards. 'Performance standards' refers to how well the employee performs the tasks within his/her role.
- 5.5 For compulsory redundancies the normal method of selection for redundancy will be by use of a scoring system based on objective selection criteria determined to be the most appropriate to each situation. A matrix of criteria, weighted in respect of the relative importance of each criterion, will be used by a panel utilising the evidence in respect of each criteria used to build a



total score for each employee in the pool for selection. Each employee will be given a copy of their matrix score. The required number employee(s) to be selected will be drawn from the rank order by reference to their scores once all criteria have been applied.

## **6. Selection for Redundancy – Category B**

- 5.6 A redundancy situation in this category would occur where posts in the former structure are being deleted or reduced in number and a smaller number of new posts are being created in specific job roles in a new structure. Employees who are displaced in the course of a re-structuring process and are potentially redundant from this service area, will be invited to apply for the new posts on a “ring fenced basis” to posts which are identified through consultation as potentially suitable alternative employment. Where more than one post is considered to be a suitable alternative, a “preference” system will operate.
- 5.7 A job description for the new post will be prepared and evaluated by a job evaluation analyst. A person specification will be prepared based on the job description and the experience/skills/attitudes required to be able to fulfil the job requirements to an acceptable standard. Displaced employees will receive first consideration for those ring fenced roles if they meet the essential requirements of the person specification for posts on the same grade or (one grade) below, or could do the role with reasonable training, i.e. within an agreed trial period.<sup>1</sup> The selection process will normally consist of an application, interview and job-related assessment process.
- 5.8 The council will make every effort to offer suitable alternative employment. Where suitable alternative employment is offered this will be on the basis of a trial period, where appropriate. Trial periods will normally be a minimum of 4 weeks and a maximum of 12 weeks. Trial periods are explained in more detail at paragraph 10 below.
- 5.9 If more than one potentially redundant employee from the service area under review and re-structure applies for a specific role, an appointment will normally be made on merit (i.e. the employee who most closely meets the requirements of the role based on the person specification and the outcome of the selection process will be appointed). The only exceptions to this are in relation to employees on maternity leave or disabled employees. (See paragraph 9.0 for more details). Any employee from this service area who is unsuccessful in securing an alternative post will be deemed to be redundant and shall be given formal written notice of dismissal on grounds of redundancy. More detail on the process to be followed for employees given notice of redundancy are given at section 12 below.
- 5.10 Any posts unfilled at this point should be treated as new/unfilled jobs and released to be filled in the normal way.

## **6. Right of Appeal against Selection for Redundancy**

- 6.1 All employees shall have a right to appeal against their selection for redundancy to their head of service, divisional director, or other nominated officer, who would be accompanied by an HR representative. Employees must register their appeals in writing within 10 working days of receiving written notice of dismissal on grounds of redundancy. An appeal hearing will be

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<sup>1</sup> A maintenance agreement exists to cover alternative employment and salary protection for the period starting with the date that employees were notified of their proposed grades under the Single Status Framework’s new pay and grading structure and ending on the date the Framework Agreement is implemented.

convened and the outcome of the appeal will be confirmed in writing to the employee within 10 working days of the date of the hearing.

- 6.2 If, once the appeal process is concluded, the employee's selection as redundant is upheld it should be confirmed in writing, giving the employee notice of dismissal on grounds of redundancy. The letter should set out the period of notice to which the employee is entitled, the date on which dismissal would be effective in the event no suitable alternative post became available and the redundancy payment to which the employee would be entitled on being made redundant.

## **7. Voluntary Redundancy**

- 7.1 If the number of employees in a service area where redundancies are proposed exceeds requirements, the Council may seek volunteers to be considered for redundancy. However, these will only be sought after all other alternatives to avoid compulsory redundancy have been considered. As such, voluntary redundancy should only be considered as a final option and not as a right by employees. The timing of this process will be determined depending on the circumstances of each situation. However, it will be the lead manager, in consultation with an HR adviser, who will decide whether or when to seek volunteers for redundancy.

- 7.2 Each application for voluntary redundancy will be considered using fair and objective selection criteria, to determine which applications should be approved. The criteria for selecting volunteers for redundancy will be management led, but the most important consideration will be to retain specific knowledge, skills and a balanced workforce relevant to the future needs of the Council after the redundancies have been carried out. Some of the selection criteria commonly used would be:

- Skills/Experience/Relevant Qualifications
- Standard of work performance or aptitude for work (evidenced by appraisals and subsequent reports)
- Attendance or disciplinary record
- Length of service, including loyalty and/or exemplary service given to the Council
- Costs of actuarial strain

- 7.3 However it must be made clear that all requests for voluntary redundancy will be considered on a case by case basis and only approved where it would be in the interest of both the Council and the employee. In certain financial circumstances approval of the Employees Committee would be necessary. Employees refused requests for voluntary redundancy will be advised of the reasons.

## **8. Offering Suitable Alternative Employment**

- 8.1 The council has a duty to consider offering "suitable alternative employment" (subject to availability) to any employee who has been selected as redundant. Managers considering making an offer of this nature should first seek advice from an HR Adviser. An offer of suitable alternative employment should be put in writing and explain how the new employment differs from the previous role and must be made before the contract ends. The new role must start either immediately after the end of the old job or after an interval of not more than 4 weeks.
- 8.2 What is deemed as "suitable alternative employment"? The "suitability" of alternative employment is commonly defined as:

- **Job content:** - wherever possible, the major elements of the job should be the same as or similar to the existing job or require transferable skills which the individual employee possesses
- **Pay:** - similar terms and conditions that are equivalent to or very similar to those the employee currently earns.
- **Status:** - of equal status, e.g. reporting lines, and number of direct reports etc.
- **Location:** - within reasonable travelling distance or within the constraints of a contractual mobility clause.
- **Working Environment:** - this may be of particular importance to an employee with a health problem.
- **Hours of Work:** - any change in shift pattern, total number of hours or days worked must take account of an employee's personal circumstances, e.g. childcare responsibilities.

8.3 Before any vacant post is released for general recruitment, if considered to constitute a suitable alternative job offer, it should be advertised to potentially redundant employees on the same grade or below. Potentially redundant employees who appear to meet the person specification should be considered before other applicants. In circumstances where potentially redundant employees are redeployed to lower graded posts the Protection of Earnings Policy will apply.

## 9. Pregnant and Disabled Employees

9.1 Where an employee has commenced her maternity leave and is selected for redundancy, the employee has a statutory right to be offered suitable alternative employment and there is no need for the employee to compete for a suitable alternative post. If no suitable alternative employment is available then the employee would be made redundant. Suitable alternative employment is normally work of a similar kind and on similar terms and conditions to those of her substantive role (e.g. if she is in an administrative job, a similar administrative role would normally constitute suitable alternative employment). Employees on maternity leave should always be consulted on their potential redundancy situation and effectively have "first refusal" for suitable alternative roles over other candidates.

9.2 Where a potential alternative is of a different nature and higher salary level, this may not constitute suitable alternative employment. In all cases, Human Resources should be consulted.

9.3 In the event that there are a number of employees seeking redeployment to the same post and all are equally suitable for the post, based on current legislation, priority should be given to women returning from maternity leave under threat of redundancy, followed by redeployees with a disability and lastly employees who have received notice of redundancy.

## 10. Trial Period

10.1 Employees who accept alternative work have a right to a minimum trial period of four weeks in law. A longer trial period may be agreed, normally of no more than a maximum of 12 weeks. If the employee accepts the post at the end of the trial period, the right to a redundancy payment will end. If the Council does not consider the trial period to be successful, the employee can be made redundant at the end of the trial period. Where the Council regards the alternative employment as meeting the criteria for suitable alternative employment and the employee leaves the employ of the Council a redundancy payment will not be made.

10.2 Where an employee feels the job is unsuitable the line manager, accompanied where requested by a HR Adviser, will meet with the employee at which the reasons will be considered and the employee will not be unreasonably refused a redundancy payment.

- 10.3 For most jobs 4 week trial periods will be deemed the most appropriate. However, where a job is considered to contain greater responsibilities or be more complex than the employee's previous one, a longer period will be agreed to permit the employee to undertake appropriate training and evaluation of the suitability of the offer. Such arrangements will be discussed and agreed beforehand and confirmed in the offer letter.

## **11. Applying for vacant posts**

- 11.1 An employee may decide to apply for and accept alternative employment, which is not "suitable" e.g. a materially different post. However, in order to encourage employees to consider such alternative posts, they will still receive a trial period of a minimum of 4 and normally a maximum of 12 weeks. If the trial period is successful they will be confirmed in the role. If it does not prove suitable at the end of the trial period, he/she will still be permitted to leave the Council on the basis of redundancy from their previous role. The new job is taken on the terms and conditions of employment that the new post attracts and not necessarily the terms and conditions they received in their previous role.

## **12. Notice Period**

- 12.1 The employee's contractual or statutory period of notice (whichever is the greater) will apply.
- 12.2 Where an employee is offered redeployment, contractual notice and the trial period for the new post will run concurrently. This may mean extending the contractual notice period to coincide with the agreed trial period if that should run to a later date. The trial period will be a minimum of 4 weeks and a maximum of 12 weeks to assess the suitability of the re-deployee in the new role.
- 12.3 Should the redeployment be deemed unsuccessful, the employee will be entitled to redundancy benefits according to age and length of service.

## **13. Support during Notice Period**

- 13.1 Employees under notice of redundancy will be given reasonable paid time off to seek alternative employment. The Council will offer outplacement advice and support to all employees under notice of redundancy. The Employee Assistance programme is also available to help employees cope with the emotional stress often felt by employees at this difficult time.

## **14. Protection of Earnings for Redeployed Employees in cases of redundancy**

- 14.1 Where an employee is redeployed to a lower graded post as a consequence of redundancy their salary will be protected for a maximum period of 2 years at the fixed salary received immediately prior to redeployment. National pay awards will be applied to the spinal column point they were appointed to in their new role and not to their protected salary. Salary protection will cease when the pay in the new post equals or is greater than the protected pay or 2 years whichever is the sooner. No incremental progression will be made in relation to the grade of their former post. Protection would normally only apply where the new role was within a maximum of 2 grades of the substantive grade of the post holder's existing post.
- 14.2 The Council would not normally offer protection of earnings to an employee who requests a permanent transfer to a post of lower remuneration but is not facing potential compulsory redundancy. Any employee who is under notice of dismissal on grounds of redundancy who

refuses an offer of redeployment to a post which would have increased or maintained his/her existing earnings, will lose the entitlement to protection of earnings. When discussing protection arrangements with the employee, it should be made clear that the protection is intended to be a transitional arrangement only. A clear date for review of the protection, including the date at which the protection will cease, will be sent and confirmed in writing to the employee.

- 14.3 Where appropriate a certificate of material change will be sent to the County Pension Scheme Administrator to protect pension benefits.
- 14.4 Where the Head of Service in consultation with a HR Adviser considers that a protected employee has unreasonably failed to accept either additional responsibilities commensurate with their level of earnings or a transfer to another post which would have reduced the employee's protection, the protection will normally cease. If the employee disagrees with the decision the employee may appeal the decision to the division director, giving reasons for the challenge, whose decision on the matter shall be final.
- 14.5 The formal offer of redeployment should specify the date or circumstances where protection will cease. (e.g. if an employee has completed 12 months in the new role or is moved to a higher graded post).

## **15. Redundancy Pay**

- 15.1 Where an employee is made redundant by the Council they will be entitled to a redundancy payment based on an actual week's pay, up to a maximum of 30 weeks pay, dependent on the employee's age and length of continuous employment at the date of redundancy. In cases of voluntary redundancy, a maximum of 44 week's payment may be granted in special circumstances. This is a delegated power of the Chief Executive which permits the application of a multiplier of 1.45 to the statutorily calculated payment, but would only be exercised where the Chief Executive believes there is an appropriate business case, and there is a need to secure a required number of volunteers who might otherwise not come forward."

## **16. A week's pay**

- 16.1 A week's pay is based on the contractual rate of pay immediately before the last day of the period of notice. When the contractual pay has varied the rate of pay will be averaged over the 12 weeks prior to the calculation date. Redundancy payments of up to £30,000 are tax free.

## **17. Service counting towards the calculation of redundancy payments**

- 17.1 Service with other public organisations may count as continuous local government service for redundancy payment purposes. Dates of continuous service will be checked with employees prior to calculating redundancy pay.

## **18. Circumstances in which employees would not receive redundancy payment**

- 18.1 Employees would lose their entitlement to a redundancy payment where:
- He/she was dismissed for an act of gross misconduct
  - The employee unreasonably refuses an offer(s) of suitable alternative employment.

- 18.2 Entitlement to a redundancy payment is protected for employees who resign during redundancy notice by the Employment Rights Act 1996 but is limited to resignations occurring during the period of obligatory notice (i.e. the statutory notice period or the contractual notice period whichever is the greater). If the manager is in agreement, the redundancy termination date can be brought forward and the employee will still be entitled to their redundancy payment.
- 18.3 Under legislation the redundancy payment must be reclaimed by the local authority which made the employee redundant if he/she takes a job with another local authority without leaving a gap of 4 weeks and one day.

## **19. Early Retirement**

- 19.1 Employees who are eligible members of the Local Government Pension Scheme and are made redundant from the Council (or are accepted as volunteers for redundancy) are entitled to early payment of pension on the grounds of redundancy from the age 55 under the revised Local Government Pension Scheme, which commenced on 1 April 2008. The exception to this is employees in the protected category under the pension regulations who can continue to receive their pension at age 50 on redundancy until 31 March 2010.
- 19.2 Under the Discretionary Compensation Regulations (2006) added years can no longer be given to employees retiring early on the grounds of redundancy. Instead employees of any age who are made redundant (or who are accepted as volunteers for redundancy) are eligible for the discretionary compensation payment, subject to approval by the Employees Committee in accordance with the published criteria for exercising its discretion.

## **20. Review**

- 20.1 This policy will be reviewed annually to ensure that it remains compliant with relevant legislation.



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### **UNISON ADDITIONAL RESPONSE TO CABINET PAPER REDUNDANCY & ORGANISATIONAL REVIEW PROCEDURES**

Some of the areas of disagreement have already been highlighted within the paper to Cabinet (trial periods and the issue of salary protection).

There are however other concerns which were raised but which members' attention has not been drawn to, they are as follows:

#### **Issues**

1. Whether the procedure is applicable or not may lead to disagreement

a) There may be dispute as to what amounts to a 'minor' change to the job description (which doesn't warrant use of the procedure 4.14).

**Management's comment:** This is not an issue on which Cabinet should decide whether to approve or not the policy; it's an operational matter that will be dealt with on a case by case basis, if and when required.

b) Also excluded are situations where there is a 'proposed change in the grade of a post' as a result of a change introduced by management. Under what procedure would management be making changes which would result in a grade change but which would **not** require a review? Surely there would need to be a significant change in responsibilities to lead to a change in grade and such change should only be made under the procedure!

**Management's comment:** The revised policy was drafted to ensure only genuine organisational change processes would be subjected to this policy. There are separate arrangements in place for addressing grading change of a post where there are no organisational/structural changes intended or required.

2. The procedure refers to 'Operating Guidelines' – a document to accompany this procedure which 'will give greater clarity and explanation in which this policy would or would not apply'. It is to be hoped that the document doesn't expand on the circumstances of application.

We would obviously like to see this document.

**Management's comment:** This has already been agreed

Given the purpose of reviewing the 'smaller rule book' procedures was to simplify i.e. shorten them; there is a certain irony that the managers guidelines which accompany the new Disciplinary Procedure (nine pages) requires forty four pages of guidelines!

3. Consultation with individual employees (5.10) – there is a danger that these initial meetings managers will have little to say, employees won't be clear as to the impact on them and the meeting serves only to allow management to claim that they have 'consulted'.

**Management's comment:** Individual consultation will be instigated when much of the detail has been worked out and employees will be given a full indication of the impact of job reductions that may affect them. This stage will take place well into the process and after the full business case for change has been aired. The Council understands and will comply fully with its statutory responsibility for meaningful consultation both collectively and individually

4. It appears that the final report will no longer be shared with the unions for comment prior to being signed off (5.11). UNISON would like to see this facility continue.

**Management Comment:** The trade unions will be given adequate opportunity to make comments on a business case during the consultation period. Consequently they will be given a full response by management on whether they have been accepted or, if not, the reasons why they have not been and know how their comments have influenced the content final report prior to sign-off. Any areas of disagreement will be comprehensively recorded in the final report when submitted for sign-off.

5. In respect of 'changed posts' it is unclear whether the criteria at 6.7 are weighted in any way?

**Management's Comment:** These points were debated during the consultation process and an assurance was given that the major element would be the job content, given individuals' transferrable skills, followed by the similarity between the two jobs by reference to status, responsibility, hierarchy, etc, and then suitability to the physical attributes of the employee. Again there is no one size fits all set of criteria and each case will be treated on its merits.

6. The current procedure allows for a slotting appeal where an employee 'considers that a post should not be slotted to and advertised for them and others to apply for as a vacancy'. It is unclear whether this is still permissible.

**Management's comment:** All employees within scope of the review would be have the opportunity to raise comments during the consultation period regarding such matters and these would always be considered and responded to in the course of that process to avoid this situation arising, but it is not felt necessary to allow a slotting appeal since they have appeal rights against unfair selection in any case.



Finally the focus of both the redundancy and organisational review procedures is more about individual consultation rather than collective bargaining with the unions.

**Management's comment:** This is not true. The existing policies do not comply with the various laws on consultation and individual employment rights. By including these legal imperatives, the policies ensure that there is both compliance with the law and a proper balance between the requirement to consult collectively on the principles of change and with individuals on how the changes proposed would affect them and give them the right of response. LCC recognises the important part that collective consultation plays in good employment relations with its workforce by engaging fully with the recognised trade unions. These policies do not change but add to the way the Council is required to consult.

It is UNISON's view that there is a drive throughout LCC to exclude/sideline the unions – this is evidenced through the use of workshops, stakeholder meetings and individual meetings to determine and shape policy, procedure and indeed the general strategic direction of travel rather than engagement with the unions.

**Management's comment:** Again this is not the case. There is a long history of policy being shaped through engagement with stakeholders, including elected members, managers and the trade unions as was the case when this policy was being revised. The comment here may refer to a stakeholder consultation meeting with some directors as customers within the ODI Support Services Review of Administrative and Business Support services. However any principles established by that process will be included in the full consultation process with the trade unions at the appropriate time under this review

1<sup>st</sup> December 2010

Gary Garner  
On Behalf of UNISON Leicester City Branch.