



Leicester
City Council

CABINET

14TH NOVEMBER 2005

PROTOCOL FOR ORGANISATION AND STAFFING CHANGE

Report of the Town Clerk and Corporate Director of Resources, Access and Diversity

1. Purpose of Report

To inform Cabinet of the progress to date on the introduction of a revised Protocol for organisation and staffing change.

2. Recommendations

Cabinet to note the contents and structure of the new draft protocol and comment on the options for member involvement in review appeals as set out in Section 7.

3. Summary

A copy of the latest version of the Protocol for Organisation and Staffing Change is attached at Appendix A. Please note that this is in draft and will be subject to further change. Consultation with the Trades Union is nearly complete. There is agreement on most issues. The one issue where there is not yet full agreement is Appeal rights. This report seeks Cabinet's views on this issue alongwith any other comments they may have on the protocol.

4. Financial and Legal Implications

None.

5. Background

There is an outstanding agreement to review the current Protocol, following it being operational for more than 12 months. In addition the Lifelong Learning Recovery Plan includes a recommendation to review the protocol in the light of the DOR and in particular to clarify the role of Members in future organisational reviews.

6. Report

6.1 Consultation has been conducted with the Trade Unions and also with FREEOPs. Departmental HR Managers have represented departmental service needs and interests.

The key features of the Protocol following this consultation are summarized as follows:-

- A three part document, structured as follows;
 - A list of compulsory standards to apply in all organizational reviews
 - Advisory and guidance notes including how to apply each of the standards in specific situations, including member involvement in reviews
 - Appendices including useful supporting information
- More reference to what needs to happen before a review commences. This includes lessons learnt from the DOR including establishing decision making authority and ensuring consistency with other relevant documents (e.g. Constitution, Standing Orders, Financial Regulations, project Management Standards)
- Clarification of the circumstances under which members should be consulted on review proposals and options for future and ongoing member involvement in reviews ranging from 'informal consultation' to formal decision making authority and signing off of reviews
- Clarification of Scrutiny committee involvement and arrangements for scrutinizing Cabinet decision on organizational reviews
- Much more emphasis on the importance of management leadership and behaviour in ensuring an effective review

7. Appeals

7.1 There is no agreement as yet on Appeal rights under the new protocol. The arrangements for Cabinet involvement and Scrutiny Committee involvement could be said to negate the need for any more specific appeal rights being included and subject to the Cabinet decision on future involvement in Operational Personnel Management, elsewhere on today's agenda; Cabinet may wish to act accordingly on this particular issue. Alternatively, Cabinet may feel that the nature of some organizational reviews warrant more

formal member involvement at a formal appeals stage. Cabinet are therefore asked to indicate which of the following they would prefer be put before the Trades Union for agreement.

1. Full appeal rights for every single review that goes up to Corporate Director in consultation with the Cabinet lead and FREEOPs Scrutiny triumvirate.
2. Full appeal rights as in 1, above, but only for those reviews that require Cabinet level consultation and involvement. Appeals rights for all other reviews would be for Service Directors/senior managers to resolve.
3. Appeal right for all reviews to officers only (e.g. up to Corporate Directors). No member involvement.
4. No appeal rights.

Cabinet are asked to indicate which of the above options they would prefer to be put forward for agreement with the Trades Unions.

8. Consultation

The Protocol was presented to the REOPPs Scrutiny Committee in September. They asked that Members role in reviews be further clarified. This has now been done. Due to the size and complexity of reviews within the organisation the new Protocol now says that members are involved in reviews which concern the majority of staff in a division. This has been agreed by the Trades Unions. The Committee also felt that the Scrutiny Triumvirate continue to have a role in the appeal process as in the existing protocol.

Recent consultation with the joint Trades Unions has been positive. Their remaining concerns again relate to the appeals mechanism. An issue regarding the robustness of the Equality Impact Assessment process has also been raised however it is felt that this latter issue can be resolved within the management of the review process.

9. Author of Report

Ian McBride
 Service Director
 (Human Resources & Equalities, 0116 252 6003)

DECISION STATUS

Key Decision	No
Reason	N/A
Appeared in Forward Plan	No
Executive or Council Decision	Executive (Cabinet)

Protocol for organisational and staffing change

1. Protocol for Organisation and Staffing Change

The following standards and conditions must be applied by managers to all organisational and staffing reviews;

- 1) Clarify decision making authority for the organisational review
- 2) Give ten working days notice of the intention to carry out a review to the relevant secretaries of the Joint Trades Unions
- 3) Establish a review team (to include the staff affected, trades union representatives and appropriate professional advisers),

Produce draft terms of reference (including business case) for the review and a draft timetable of meetings and key events. Include an indication of staffing implications (e.g. current/proposed structure reduction in posts of a certain kind, etc)

- 4) Facilitate and chair review meetings
- 5) Present “proposals for change” to the review team including;
 - a) The draft terms of reference (including business case)
 - b) Impact on current staffing structure
 - c) Financial implications of proposed changes
 - d) Impact on staff including any new job descriptions (and results of evaluation)
 - e) Proposed arrangements for any jobs to be filled
 - f) Reconsideration mechanism
- 6) At the appropriate time, to ensure any staff who are priority status or redeployees are advised of their position, rights and obligations.
- 7) Write any new job descriptions and profiles and to present them for job evaluation
- 8) Ensure a final report is signed off as agreed by the appropriate Director (subject to decision making authority)

The report should include:

- a) Original proposals for change
 - b) Any amendments to proposed changes with reasons and the implications as set out in a. to e. above.
 - c) Implementation Plan and timetable
 - d) A Slotting List
 - e) Financial implications
 - f) Employee Comments
- 9) Prepare any reports necessary for the Employees' Retirements Committee and present them
10. To give appeal rights as appropriate (Organisational reviews, slotting in, job evaluation) and attend appeals as required.

2. Guidance Notes For Managers – Protocol for Organisation and Staffing Change

The guidance is aimed at ensuring organisational reviews are managed effectively giving thought to the needs of all involved. Both sides should come forward in good faith. It should be remembered that this protocol provides advice on the HR aspects of a review but there are other Council policies and standards, which may also need to be taken into consideration.

Depending on the particular circumstances, it may be appropriate to make structural changes outside of this protocol. The circumstances where this may arise may vary. As such if this is the case the manager leading the review should arrange to discuss with the relevant trades unions and personnel and/ or business support to agree a way forward. If agreement could not be reached then a review under this protocol would be necessary.

You should take into consideration the amount of reorganisation an area has been subject to and whether structures have had long enough to be effective before further changes are proposed. This will help to minimise the amount of uncertainty and upheaval faced by staff.

1. Clarify decision making authority to carry out an organisational review.

1.1 Before a review can commence the manager designated to lead the review needs to clarify their authority to do so. Managers should consider issues such as;

- Is there a policy decision that has led to this review being necessary? If so, what does it say and what does it mean? Is the policy decision clear?
- At what stage should employees and the trade unions be invited to become involved in the formulating of ideas.
- If a review is to involve a whole division or the majority of staff in a division then consultation must take place with the relevant Cabinet Lead. The Cabinet Lead can then decide on the nature of their involvement from then on. This could be receiving informal briefings, receiving regular formal progress reports, or signing off the final review report or any combination of the above. The relevant Scrutiny triumvirate could then ask to receive the same briefing as the Cabinet Lead.
- Are you clear about your decision making authority under the Council's Constitution and Scheme of Delegation? For example decisions on Chief Officer terms and conditions are reserved to elected members through the Employees Committee.
- Other relevant Council policies or standards include Financial Procedure Rules and Leicester City Council's Project

Management Standards. The latter set out standards for 'major projects' and apply PRINCE 2 principles. You may need to ensure that your review is managed in line with these standards.

Good preparation and proper planning important ingredients to a good review. Advice should be sought from the appropriate Personnel or Business Support Advisers.

2. Give ten working days notice of the intention to carry out a review to the relevant secretaries of the Joint Trades Unions.

2.1 As the manager leading the review, you should contact, in writing, the Branch Secretary of the relevant trade unions informing them that a review is to take place, to enable the unions to provide a representative of the relevant unions and the stewards for the area as appropriate.

2.2 Notice of a minimum of ten working days should be given to staff and unions that a formal meeting is to take place. You may find it helpful to brief Trade Union colleagues on particular aspects of the review in advance of the first review meeting.

2.3 Give consideration as to when a review actually begins. This is not always obvious. If you are commissioning individuals to carry out information gathering exercises to determine if a review is necessary then it is good practice to inform the trade unions and employees that this is taking place to enable early consultation to take place.

3. Establish a review team (to include the staff affected, trades union representatives and appropriate professional advisers),

3. Produce draft terms of reference (including business case) for the review and a draft timetable of meetings and key events. Include an indication of staffing implications (e.g. current/proposed structure reduction in posts of a certain kind, etc)

3.1 If the review you are leading is large you will need to explain how representatives from the staff affected will be selected. A liaison representative must be able to put the views of their team across in meetings and be able to feedback to the team what happened in the meeting. In a large formal review it is not usually possible to arrange for all staff to go to all review meetings. Liaison representatives should be chosen by the affected staff to attend meetings giving feedback to staff on progress and ensuring that staff comments are brought back to the review meetings.

3.2 When establishing a review team consideration needs to be given to the roles and responsibilities of professional advisers. These will normally include HR/personnel and/or Business Support. In addition depending on

the nature of the review, advice may also need to be sought from finance, property, ICT or Equality specialists. This list is not exhaustive and reviews in specialist areas may require other specialist advice.

- 4.1 Terms of reference should be drafted outlining the scope of the review including a business case. A draft timetable of meetings and key events should also be produced for the first or an early review team meeting.
- 4.2 Where a review is a major project then there must be an appropriate project plan and adherence to the Council's project management standards.

5. To facilitate and chair review meetings.

- 5.1 As with chairing any meeting the corporate guidance on "Better Meetings" and "Helpful Behaviour" should be followed. This can be found in the appendix.

6. Present "proposals for change" including;

a) The draft terms of reference (including business case)

Terms of reference should be circulated for comments. Where proposals are part formed or the outcome of the review can be anticipated, these elements should be included at the outset. It is generally advisable to maintain the review teams interest and commitment to the review by inviting their comments and feedback throughout the review process.

It is a good idea to consult with stakeholders on proposals e.g. customers, peers, to obtain a range of useful views and to help build support to your proposals for change.

b) Impact on current staffing structure

Managers initially will normally substantiate the reasons for a reorganisation and anticipate the potential outcome for staff and service users.

It is good practice to prepare a draft structure at the earliest opportunity. This should focus on the nature and level of posts rather than individuals and should help to minimise uncertainty for the staff affected.

Where it is identified that there is a potential for job losses, you will need to produce and distribute a priority status list. (See Guidance on 7. below)

Any accommodation changes should be considered in terms of operational or access requirements that may be affected.

c) Financial implications of proposed changes

Detailed financial implications may not be known until after any job evaluations of any new posts are carried out. However an indication should be given as to whether the manager believes the review will produce savings, require additional funding or be cost neutral. You should be aware of your responsibilities under delegated powers and financial procedure rules. If in doubt guidance should be sought from the departmental Head of Finance.

d) Impact on staff including any new job descriptions (and results of evaluation)

Draft job descriptions will need to be produced to define roles and to give employees the opportunity to comment on the content of the jobs in the new structure. You should always say why any proposed changes from staff are accepted or not accepted.

All new posts or existing posts subject to substantial change will be evaluated during the course of the review. Where posts are not evaluated because they are regarded as unchanged and the staff disagree, this should be recorded, with reasons.

The creation or continuation of temporary posts and how they will be filled should form part of the consultation.

e) Proposed arrangements for any jobs to be filled

Details of how any new posts will be filled should be consulted on with the review team. Don't forget any staff who may be absent.

Comments from trade union representatives and any from staff should be given consideration including counter proposals. If you are unable to accommodate these you should be prepared to provide a full explanation.

f) Reconsideration mechanism

At any point in the review process if employees or the trade unions feel that this protocol is not being followed or that consultation is not meaningful then the review leader's line manager should meet with the employees and/or trade unions to hear their concerns and to find a way forward. If the review leader is a Corporate Director this should be to another Corporate Director as nominated by the Chief Executive.

The mechanism should not necessarily delay the review process but be a check to enable differences of opinion about the conduct of the review to be explored. This is not a mechanism simply to disagree about the direction or outcome of a review.

7. At the appropriate time to ensure any staff who are priority status or redeployees are advised of their position, rights and obligations.

7.1 Priority status means that a post has been identified that may not exist in the new structure. Those declared as having 'priority status' will have the ability to have jobs withheld from advert for them through the redeployment board but do not have the same priority as redeployees.

The advice on positions, rights and obligations of "priority status" employees or redeployees should be given by suitably qualified advisers. However as the manager, it is your responsibility to ensure that this advice has been sought and provided.

10. Write any new job descriptions and profiles and to present them for job evaluation.

9.1 Job descriptions once finalised should be presented for evaluation. Guidance on writing job profiles is available from departmental business support and/or personnel teams.

10. To ensure a final report is signed off as agreed by the appropriate Director (subject to decision making authority).

10.1 The appropriate Director may be at Corporate or Service Director level.

The report should include:

a). Original 'proposals for change'

The original proposals and terms of reference should be included to give the context within which the review has taken place.

b). Any amendments to proposed changes with reasons and the implications as set out in a. to e. above.

Any amendments to the proposals that have arisen as a result of the consultation or advice from advisers should be outlined. These should include amendments to the following:

- a. The draft terms of reference (including business case)
- b. Impact on current staffing structure
- c. Financial implications of proposed changes
- d. Impact on staff including any new job descriptions (and results of evaluation)
- e. Proposed arrangements for any jobs to be filled

c). Implementation Plan and timetable

A timetable for implementing the results of the review should also be produced. This should include arrangements for appeals and recruitment. Where a review is conducted in more than one stage, a projected timetable for the following stages should be included.

d). Issue a slotting list

You should include a list of all employees who will 'slot' into posts in the new structure.

Details of slotting arrangements are given in Section X.

g) Financial implications

Detailed costs of the proposals should be presented including costs of new posts or career grades. Again managers should ensure the appropriate delegated responsibility in this respect. Where a review is conducted in more than one stage an indication of likely costs at the next stage should be estimated. Any additional financial implications such as changes to service charges should also be included.

h) Employee comments

Comments from trades unions and/or employees should be included in the final report.

i) Equality Impact Assessments

EIAs should be included as part of the final report see below

10). To prepare any reports necessary for the Employees' Retirements Committee and to present them.

The Cabinet Lead, in consultation with Corporate Director must consider plans that arise during reviews with regard to potentially surplus staff. It is important that the Cabinet Lead is made aware of any such cases prior to the Employees Committee. Redundancy/retirement costs of above £50,000 per employee need to be reported to the Employees Committee. When considering such cases look very carefully at any essential criteria that preclude a redeployment and actively consider re-training. Real concerns exist about the need to realise talent particularly amongst long serving employees.

It is the responsibility of the manager leading the review to prepare any reports to the early retirements Committee. No decisions should be made about the acceptability of any early retirement without the prior consent of the Committee.

Guidance on the completion of the standard documentation and support at the Committee is available from departmental personnel sections.

11. To give appeal rights as appropriate (Organisational reviews, slotting in, job evaluation) and attend appeals as required.

The grievance procedure is not available to be used in a review situation.

Appeal rights include;

a) Appeals against the management of the review process

Where there are unresolved issues about the management of the review and the application of the protocol, the review file will be made available for inspection.

In the first instance the grounds of the appeal should be put in writing to the Corporate Director no later than ten working days following the final review meeting. The Corporate Director (or nominee) would then consider the Appeal supported by a Personnel/Business Support Adviser. This would include inspecting the Review file and interviewing relevant parties. The Cabinet Lead should be advised of any appeal being lodged.

The appellant(s) and their representative(s) would present the case. Their decision would be put in writing to the Appellant within ten working days of the Appeal being received.

Timescales would be ten working days from receipt of appeal. Where that timescale proves unrealistic a timetable for the appeal will be drawn up with reasons given for the delay.

b). Appeals against slotting in

Appeals against slotting in are permissible when:

An employee wishes to object to where they have been slotted or where they believe they should be slotted into a post allocated to someone else or where an employee considers that a post should not be slotted to and advertised for them and others to apply for as a vacancy.

Appellants will have the right of appeal against 'slotting decisions' to the relevant Service or Corporate Director. If a Corporate Director has lead a review then the appeal will be to the Chief Executive or his nominee. Appeals must be submitted within seven days of the list being issued. Job profiles will be made available to all parties and both the manager and the appellant will make written submissions, to be received five working days before an appeal hearing for slotting in.

This appeal should be an informal event, with the relevant Corporate or Service Director assisted by a Personnel Adviser, and attended by the Manager responsible for the review, the appellant(s) and their representative(s), if they wish.

c) Appeals

Where appeal rights currently exist for specific aspects of the Review including job evaluation and selection for redundancy. These would be dealt with by the relevant appeals process.

Where an individual wishes to appeal against more than one aspect of the process these should be dealt with as part of the same process.

12. Equality Impact Assessments

The Council's Equal Opportunities Policy must be fully complied with throughout the course of the review.

An Equality Impact Assessment of the impact of the review should be carried out. In conducting reviews managers should consider the following:

- The current constitution of the section(s) to be reviewed and the anticipated impact of the review on this make up - what in terms of race, gender, disability are the results in terms of grades, redundancies, slottings etc and if there are options and alternative structures to consider we should do EIAs for them to assist in the decision making process of which option to go for.
- Communication, provision of information in other formats and to those who are absent
- Location of meetings and accessibility of venues
- Working Patterns/arrangements and timing of meetings
- Religious commitments

Impact of changing location of a service or opening hours on those with caring responsibilities should also be considered.

13. Evaluate the process

It is a useful idea to seek feedback from employees/trade unions on the review process. Find out what worked and what did not and ensure departmental and if necessary corporate HR are made aware, we can only improve our management of reviews if we continue to learn and seek improvement.

14. Managing Employees and the new structure

14.1 Each member of staff is given the post in the new structure, which is

most similar to the one occupied previously. A comparison is made between their old job description and custom and practice and the new one to find the best match.

Employees appointed to temporary posts following an external recruitment exercise to the full person specification will be considered for slotting-in rights the same as permanent staff, providing they have acquired one year's service and passed their probationary period. This provision is subject to there being no detriment to permanent staff.

14.2 An employee on secondment who has retained their substantive post to

return to at the end of the temporary contract will have the choice of either returning to their substantive post or being slotted into the new structure, providing they have been interviewed in accordance with the full job specification in competition with employees across the Council, and it is not to the detriment of any substantive job holder. A seconded employee who chooses to be slotted in to a new post in this way waives their right to return to their substantive post. Where there is competition for slotting, priority will be given to permanent employees, then seconded employees without substantive posts and finally seconded employees who have substantive posts to return to.

14.2 Application of the above amendments to slotting-in rights does not apply to Standby Register Clerks as they are recruited to the Standby Register specification and not to that of a specific job.

14.3 The mechanism for slotting in appeals is given at 11b above.

14.6 Employees will be slotted on a higher grade or higher level of seniority (normally limited to two grades) through the slotting-in process only after a personal interview utilising the Council's job interview procedure. An internal reference will be taken up

15. Guidance on appointing to the new structure

15.1 What does custom and practice mean?

It is accepted that over time job descriptions do become out of date and emphasis on certain responsibilities and elements of the job can also change.

Essentially custom and practice would seem to be satisfied when the duties within a job have significantly changed over a period of time such that this is now the accepted way of doing things/ performing the job.

Whilst not an exhaustive list, questions that might help to determine whether a custom and practice consideration exists and should be taken into account are:

- Has the changed way of working been accepted by both the employee(s) and manager? If so, has the job description been revised to reflect this or some other formal acknowledgement such as the appraisal?
- What evidence exists to support that this is now the established way of performing this role/these duties?
- Is this reasonable?
- Has there been an incremental change in the way the job has been carried out?
- Has there been an accumulation of additional or different duties (not necessarily higher graded duties)?
- Has there been a loss of duties?
- How long has the employee(s) been doing it this way? (A few months does not constitute custom and practice, and two years would be a more likely time period over which custom and practice could be accepted)

Finally, consider the fairness of the process. Could you be vulnerable to accusations of favouritism? E.g. was this work which is now being assessed as custom and practice open to everyone to undertake?

Conversely, custom and practice does not exist when:

- There is already some form of recognised appointment/ formal acknowledgement e.g. acting up, temporary promotion, and honorarium.
- When an additional and recognised discrete piece of work is allocated/offered to an employee/group of employees to achieve an identified goal or outcome.

15.2 A few final thoughts when slotting in

- Only look in the review area for slotting otherwise this is unfair.
- If there are a number of similar posts which a number of staff could slot into then consider ring fencing these to all the staff, interview them (once) and also ask them for their preferences on the posts available for slotting and take both the preferences, interviews and best match factors into account when arriving at your decision.
- Where in a new section two or three posts are being combined into one post then the new duties and responsibilities would need to be of a comparable standard and responsibility for slotting in/ ring fenced competition to apply.
- Generic job descriptions are a mixed blessing when considering compatibility as there are similarities in terms of core skills but there are also specialisms such that these posts would be compatible for

redeployment purposes but not for slotting which is only based on duties and responsibilities.

- At what point are changes to an existing job so significant that it is considered a new post and therefore unavailable for slotting? Whilst there are no fixed guidelines on this, a general “rule of thumb” would be that if 50% or more of the old job were still present in the new one then slotting would be appropriate. In arriving at this figure the frequency/regularity with which duties and responsibilities happen and the importance and impact of them are relevant factors rather than simply looking at the number of tasks on the old job description.

15.3 What about temporary employees?

Employees appointed to temporary posts following an external recruitment exercise to the full person specification will be considered for slotting-in rights the same as permanent staff, providing they have acquired one year’s service and passed their probationary period. This provision is subject to there being no detriment to permanent staff. Any other acting up, temporary promotion or secondment arrangement would not count for the purposes of slotting.

Appendices

1. Behaviours to adopt

Things you should think about in designing and managing your meetings, taken from 'Better Meetings guidance' includes:

Invite team members to express any concerns and expectations about the review or the particular meeting. This is useful way to build a shared agenda that all review team members are more likely to be committed to.

Clarify the purpose with the group - "what are we trying to achieve?"

Get the right people involved - "Who can make it happen?"

Create an inclusive agenda - "Ask whether people are discussing what they all want to discuss?"

Design the meeting- "Is this the right, place, time and environment for this meeting?"

Manage the conversation - "Is everyone contributing to this meeting?"

Agree actions and accountability - "who is going to do what we have agreed?"

As Review leader, your personal behaviour is also important. For example;

Clarify your commitment to the review; as the Leader of the review, think "What do I want to achieve?"

Listen to what others are saying to you, ask yourself; -"Am I taking time to really understand what you are saying and feeling"?

Say what you mean-"Am I being open and honest about my feelings here (but without pointing the finger of blame)?"

Think win/win -"Can we do this so that we all get what we need?" It may not always be possible to meet everyone's needs but don't lose sight of this in the process.

Good mouthing - not badmouthing "Am I looking for the good things in this situation/person?" Reviews can be difficult for employees, setting your own standards of behaviour at review meetings will help others. Professional and appropriate language and behaviour should be adopted by all parties at all times.

These helpful behaviours also apply to review group members, liaison representatives and trade unions.

Meetings should be minuted and the minutes should be made available in good time before the next meeting.

2. Sources of Guidance

Your HR/Business Support functions in departments can advise as appropriate. It may also be advisable to include Learning and Development /Organisational Development expertise. Advice on the financial aspects of the review should be sought from departmental finance teams. Leicester City Council Project Management Standards are available on the Intranet. If you have not conducted a review before your HR/ Business Support function can help you find a mentor (a manager who has a lot of organisational review experience) to give you support and act as a sounding board. Do not feel that you are on your own-if in doubt ask your personnel/HR/business support section or of course your own line manager.

Add TU Branch Secretaries addresses and contact nos.