

Agenda item:

[No.]

General Purposes Committee

On 29 March 2010

Report Title. **Updates to Redeployment Policy and Restructure Policy**

Report of **Assistant Chief Executive (People & OD)**

Signed :



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**1. Purpose of the report**

- 1.1. To approve the changes to the Redeployment Policy and to the Restructure Policy as outlined.

**2. Introduction by Cabinet Member (if necessary)**

- 2.1. (Not necessary)

**3. State link(s) with Council Plan Priorities and actions and /or other Strategies:**

- 3.1. Not applicable.

**4. Recommendations**

- 4.1. To approve the reports.

**5. Summary**

- 5.1. The main principles of the redeployment policy update will include
- A variable approach to managing the redeployment search period and redundancy notice periods for redeployees.
  - A more detailed approach to matching the skills of the redeployee to the requirements of suitable vacancies. Allocation of redeployees to posts with

longer trial period (between 8-16 weeks).

5.2 The main principles of the restructure policy update will include:

- All requests for redundancy will be managed without the call for volunteers.
- Every effort will be made to retain displaced staff but it is recognised that it may not be possible to do this in the current climate.
- Employees who do not co-operate in the redeployment process may jeopardise all or some elements of their redundancy payment.
- A combination of methods will be used to select individuals for posts in the new structure
- Job families will be created to improve the flexibility of staff movement.

## **6. Chief Financial Officer Comments**

6.1. The proposed changes to the redeployment and restructure policies being recommended should provide for a more streamlined and efficient process.

6.2. Clearly if redeployment opportunities are not identified, redundancy costs will ultimately be incurred the financial impact of which will be assessed on a case by case basis.

## **7. Head of Legal Services Comments**

7.1. The Head of Legal Services has been consulted on the content of this report and the proposed policy documents concerning organisational restructuring and redeployment. The proposals generally meet the statutory and common law requirements concerning reorganisation and redundancy. A few points require some further comment in order to clarify the operation of the new policies.

7.2. The first point is that the statutory right to a redundancy payment is only extinguished where an employee unreasonably refuses an offer of suitable alternative employment in respect of a post to commence within 4 weeks of the termination date of the old contract, which has been made before the termination of that contract.

7.3. The next point is that the process by which employees are selected for redundancy must be one that is fair, objective and non-discriminatory. Thus the methods used for selection in any particular circumstance must be capable of justification in the individual conditions of that circumstance and also must be the subject of consultation.

7.4. There are two main elements regarding the duties on an employer to consult concerning proposed redundancy dismissals. The first is the statutory duty which includes the requirement to consult with recognised trades unions as identified in the policy document. The second is the common law duty to consult with individual employees affected.

7.5. The provisions set out in the redeployment policy concerning priority consideration being given to employees with a disability and to pregnant employees are an accurate reflection of the position as required by statute. This is unchanged from the previous policy.

## **8. Equalities & Community Cohesion Comments**

8.1. There are no fundamental changes to the content of either policy which will have detrimental equality implications for employees.

## **9. Consultation**

9.1 The Head of HR has met with trade union representatives to consult on the content of the policies.

## **10. Service Financial Comments**

10.1 At this point in negotiations it is difficult to predict if there will be any savings resulting from the changes, although there may be some arising from changes to redundancy payments if people do not co-operate with the redeployment process.

## **11. Local Government (Access to Information) Act 1985**

No documents that require to be listed were used in the preparation of this report.

## **12. Principles to be included in the new Redeployment Policy**

### **Introduction**

1. An increased number of employees being selected for redeployment is anticipated.
2. There is also likely to be reduction in the number of vacancies being advertised and therefore fewer opportunities for redeployment.
3. The current redeployment policy allows for up to 12 weeks redeployment followed by a contractual notice period of up to 12 weeks. A variable approach to the period of redeployment offered will be adopted with the maximum period being given only where there is a clear organisational need to retain the skills of the individual.
4. Redeployees will be matched to vacancies without the need for a recruitment process which can be stressful to the redeployee and penalises those with less interview experience.

### **Key Principles of new policy**

1. The more flexible redeployment search period will be adopted. The current policy allows for a redeployment period of up to 12 weeks can be , although in practice 12 weeks is the norm. It is proposed to make this period more flexible according to likelihood of placement.
2. An extension to the agreed redeployment may only be requested once for sound business reasons and be for a defined period. The Head of HR will make the final decision about whether to agree the request.
3. It is proposed to pro-actively match redeployees to posts based on skills assessment. Currently the redeployment process mirrors the recruitment process with an application and a panel interview. The new policy proposes matching redeployees to vacancies with a longer trial period. A final decision regarding suitability of redeployee to post will be made by the line manager at the end of the

assessment. A competitive interview will only be held where two or more redeployees are matched to one vacancy.

4. A factual Statement of Employment History prepared by HR which will be given to managers when the assessment period begins. The Statement will contain sickness information and "unspent" disciplinary information and will be for information only.
5. In the cases of medical redeployees or redeployees who have a disability, Occupational Health must confirm that any adjustments identified are reasonable & can be implemented in the new role before the placement begins.
6. Currently, if a redeployee is successful in being seconded to a post or secures a temporary post for up to 12 months, their substantive business unit is responsible for meeting redundancy costs. If the temporary post lasts for 12 months or more redundancy costs are met by the new business unit.

A copy of the full policy is attached.

### **13. Principles to be included in the new Restructuring Policy**

#### **Introduction**

The Organisational Change / Redundancy policy (to be re-named the Restructure Policy) was last updated in November 1997 and is now in need of revision in the light of changing circumstances.

The new policy has not substantially changed the spirit of the original document, instead it seeks to bring it up to date, and where necessary, make amendments in line with legislative changes and changes which have taken place within the council since the original policy was adopted.

#### **Principles of the Restructuring Policy**

1. In the current climate and for the foreseeable future, budgets will be tightened and business units will be seeking efficiency savings. Restructuring will be a method of achieving these aims, although it is recognised that it may have an impact on the job security of some employees. Although the council will no longer seek volunteers for redundancy it can no longer aim to avoid compulsory redundancies. Instead the policy aims to minimise the effect of redundancies by employing a variety of methods, including redeployment, freezing recruitment, or reducing / restricting non-essential overtime and reducing the need for agency staff where appropriate.
2. It is proposed to utilise a variety of methods for selecting individuals for posts including interviews, management assessment, and/or relevant testing.
3. Management assessments will be conducted by at least two managers. Advice will be provided by HR in all cases.
4. Due to changes to the pension scheme, the council no longer offers added years in the case of redundancy.
5. It is proposed that where a redeployee has not fully co-operated with the redundancy process they may jeopardise all or some of their entitlement to a redundancy payment.
6. The position of employees in 'Acting up' situations will be clarified.

A copy of the full policy is attached.

## REDEPLOYMENT POLICY

## APPENDIX A

Introduction

Scope of the Policy

General Principles

Redeploying to a Temporary Post

Skills Assessment & Workshops

- Skills assessment interview
- Employment skills workshops

Matching Redeployees to Vacancies

Trial Period of Assessment

Disabled Redeployees

Employees on Maternity Leave

Safeguarding Initiatives

Factual Statement of Employment History

# REDEPLOYMENT POLICY

## INTRODUCTION

The council's redeployment procedure was approved by General Purposes Committee on XXXXX to take immediate effect.

The current procedure is set out in full below.

## SCOPE

The procedure is designed to cover redeployment arising from

- reductions in posts
- re-organisations of the establishment or structure
- an employees' inability to meet their substantive post due to ill health or disability
- re-instatements from Member Appeals
- relegations following a disciplinary, capability or as directed by the Head of HR
- for any other reason under Council procedures

This procedure applies to all Council employees, except those employed at schools/colleges under Local Management of Schools which have their own procedures. It will not apply to staff falling within the purview of the JNC for Chief Executives or Chief Officers.

## GENERAL PRINCIPLES

The council has an obligation to seek suitable alternative employment for an employee whose post is made redundant or is unable to perform their duties due to reasons mentioned above. Whilst attempts will be made to find a redeployee suitable alternative work, redeployees are also expected to take responsibility to proactively search for suitable alternative employment.

In order to maximise the job opportunities available across the council a suitable vacancy may be either temporary or permanent. Redeployees may also be considered for either suitable secondment opportunities or for temporary project work to develop their work experience which may assist them to secure a permanent position inside or outside the council. If a redeployee applies for or is matched to a secondment opportunity, she/he will be given a temporary contract for the duration of the opportunity as it is not possible to second an employee with an expectation of return to a post which may not exist on the establishment at the end of the secondment period.

The council does not protect earnings if an employee is displaced. A redeployed employee will take up the terms and conditions applying to a new post and is not protected from any reduction in previous earnings or benefits.

In exceptional cases, redeployees may be given a redeployment period of up to 12 weeks although the majority of redeployees will be given a period of between 4 – 8 weeks with each case considered on an individual basis. Where less than 12 weeks have been given,

an extension may be requested by the redeployee's Head of Service, this must be made in writing to the Head of HR who will make the final decision.

The period of redeployment will be given in addition to the redeployee's contractual period of notice. The redeployee will be notified, in writing by HR, of the start and end date of the notice/redeployment period when they are first referred to the redeployment register and a copy will be sent to the Redeployment & Retention Adviser as confirmation of the individual's referral to the redeployment pool. Details of their estimated redundancy payment will be sent to the redeployee towards the end of this period if attempts to redeploy have been unsuccessful.

Employees who are involved in a re-organisation process should be referred to the corporate redeployment pool only when they have been unsuccessful in ring fence interviews which are applicable to them and after the manager has considered whether the effected employee(s) can be redeployed elsewhere within the Directorate. In the event that a suitable position is not identified via redeployment then the employing manager will remain responsible for meeting potential redundancy costs.

## **REDEPLOYING TO A TEMPORARY POST**

If a redeployee is appointed to a temporary position for a period of 12 months or less, the redeployee's substantive Directorate will be responsible for meeting any redundancy costs. However, if the temporary contract lasts for more than 12 months the employing directorate will assume responsibility for meeting potential redundancy costs.

If a redeployee takes on two or more temporary contracts, each individually lasting 12 months or less but where the total time away from their substantive post totals more than 12 months, their substantive directorate will remain responsible for meeting potential redundancy costs.

Before a redeployee takes up a second or subsequent temporary post which would take them away from their substantive post for more than 12 months (and providing that this temporary post is less than 12 months in total), the Redeployment & Retention Adviser must ensure that the redeployee's substantive line manager is aware of their responsibility for payment of potential redundancy costs.

For the duration of a temporary contract, the redeployee will be suspended from the redeployment pool. He/she will be re-instated into the pool towards the end of the temporary period for the remainder (if any) of their period of redeployment & notice.

## **SKILLS ASSESSMENT AND WORKSHOPS**

### **Skills Assessment Interview**

Within a maximum of 3 working days of receiving a referral to the redeployment pool, the Redeployment & Retention Adviser will contact the redeployee with a date for the skills assessment interview. Redeployees should make all reasonable efforts to make themselves available for this meeting. A template of a career history form will be sent to the redeployee in advance of this meeting for them to complete and discuss at the meeting. This form will form the basis of the discussion. The period of redeployment and notice will begin from the date of referral to the Redeployment Pool. An assessment centre may also be arranged to give more detailed information regarding existing skills

The purpose of the assessment meeting will be to

- explain the redeployment procedure and process and to answer any questions the redeployee may have
- to seek to find out more about the existing skills of the employee

The meeting will also be an opportunity to discuss any support the redeployee may need and to ascertain whether there is a need to refer for personal counselling via the Council's Occupational Health Unit. The discussion may also be used to help to identify any immediate training requirements that the redeployee may have. If a training need is identified, the Redeployment & Retention Adviser will be responsible for liaising with the redeployee's line manager, with the Organisational Development and Learning team and occasionally with the Haringey Adult Learning Service, to explore suitable training courses which may be available. Any costs relating to training will be met by the redeployee's line manager.

### **MATCHING REDEPLOYEES TO VACANCIES**

Vacancies are to be firstly checked by the Redeployment & Retention Adviser to see if there is a potential match to the skills of any of the redeployees. Jobs will only be considered at the same grade as the redeployee's substantive post or at one grade above or below. If there is a potential match at a grade other than these, the suitability of the redeployee for the post must be subject to a decision made by the relevant Business Partner.

In cases where the Redeployment & Retention Adviser considers that there is a good match between the skills of the redeployee and the vacancy, the recruiting manager and the redeployee will be informed and a date agreed for the redeployee to begin an assessment period. Neither side will be able to refuse to take part in this period of assessment. A copy of the Employment/Skills Profile completed by the redeployee will be sent to the line manager for information at the start of the assessment period and will be for information only.

The period of assessment will last for a minimum of 8 weeks but after consultation between the line manager and the relevant HR Business Partner, it may be extended for a period of up to 16 weeks. During the trial period, the notice / redeployment period will be suspended until such time as the redeployee is either permanently redeployed or is returned

If there are two or more redeployees who are matched to the same job, each will be asked to complete a statement in support of their application which addresses the candidate specification criteria. Each redeployee will be guaranteed an interview for the post. The recruiting manager will be given a copy of the skills assessment form and the supporting statement for each candidate prior to the interview but cannot use these as a shortlisting tool.

If a redeployee is referred to the corporate pool after a suitable job has been released for external advertising, which the redeployee considers to be a suitable match, he/she can complete a standard on-line application form addressing the candidate specification and make it clear on their application that they are applying as a current redeployee. Their application will be considered alongside any other external applicants. They are also



responsible for notifying the Redeployment & Retention Adviser of their application. Once notified, the Adviser will alert the relevant line manager to the redeployee's status, remind them of the council's commitment to retaining staff within the organisation and outline that training or development should be considered in order to help them to fulfil the full job requirements. The decision to shortlist or not remains with the recruiting manager.

## **PERIOD OF ASSESSMENT**

The assessment period should be used by the line manager to closely monitor and assess the suitability of the redeployee for the post. The line manager must ensure that the assessment is used to identify any training needs, to set targets as necessary and to enable a full assessment of the redeployee's suitability for the job to be carried out during the period.

Assessment forms must be completed at fortnightly intervals throughout the period with a copy returned to the Redeployment & Retention Adviser.

A final decision regarding the suitability for the redeployee must be made at the end of the agreed assessment period. If the decision is that the redeployee is not suitable, this must be confirmed to the redeployee in writing by the line manager and a copy sent to the Redeployment & Retention Adviser. The redeployee would then remain on the redeployment register for the period remaining of their original period of redeployment & notice.

If either the redeployee or the line manager consider during the assessment that the post is not suitable, one or other must raise this as early as possible during the assessment period and must be able to provide evidence to support their claim. Support and development opportunities should be given to enable the issue(s) to be resolved but if ultimately this isn't successful, a discussion must take place with HR to agree a date for the redeployee to return to his/her substantive role (or to a suitable alternative job identified by the substantive line manager) for the remainder of their period of redeployment & notice and the job search will begin again.

## **DISABLED REDEPLOYEES**

The Disability Discrimination Act 1995 (as amended) requires employers to consider making reasonable adjustments to working arrangements in cases where an employee's disability puts him or her at a disadvantage to a non-disabled employee. This includes offering a position in preference to other staff where an employee is being re-deployed for a reason related to their disability.

For medical redeployees or redeployees with a disability, the occupational health unit must confirm that the placement is suitable before the redeployee begins work. If there are considerable adjustments which need to be put in place before it begins, a decision must be taken about whether or not it is reasonable to do so.

Serious consideration must be given by the recruiting manager in discussion with the Redeployment & Retention Adviser as to whether additional training could be given to support the employee during the trial period in order to assist them in meeting the skills requirement of the job.

## EMPLOYEES ON MATERNITY LEAVE

Employees on maternity leave have a right to be fully consulted during a restructure or re-organisation and to be offered any suitable alternative post (\*), where her skills and experience are matched to a suitable vacancy. However, only pregnant employees who have already commenced a period of maternity leave must be offered suitable alternative employment in preference to any other employee who is similarly affected by redundancy. A failure to do so will make any dismissal as a result of the redundancy programme automatically unfair.

*\*Suitable alternative employment means the work to be done is suitable in relation to the employee and appropriate for her to do in the circumstances, and the provisions of the contract as to the capacity and place in which she is to be employed and the other terms and conditions are not substantially less favourable than they would have been if the employee had continued to be employed under the previous contract.*

## SAFEGUARDING INITIATIVES

A suitable placement may be identified which requires either a CRB Disclosure and/or clearance from the Independent Safeguarding Authority (ISA) (ISA checks become mandatory from November 2010 for some jobs which have regular and direct contact with children or vulnerable adults).

If a CRB is required, a Waiver Form may be completed to ensure that the redeployee is closely supervised until the CRB is received. A CRB will be applied for at the beginning of the trial placement. The period of assessment and close monitoring must be extended until the CRB disclosure is received and is considered satisfactory.

If the CRB disclosure is not satisfactory the process detailed in the CRB policy must be followed. If the subsequent decision is not to offer the post on a permanent basis due to an unsatisfactory CRB, the redeployee will be returned to the redeployment register for the remainder of their 4 month period of notice/redeployment.

If the identified vacancy is a Regulated or Controlled post under the ISA definitions, the redeployee must be checked and clearance received before she/he can start the placement.

## FACTUAL STATEMENT OF EMPLOYMENT HISTORY

The statement will be prepared by HR and will be given to the manager for information only, at the beginning of the assessment period. The Statement will contain sickness information and "unspent" disciplinary information. The sickness details may be used to consider past history and to be used by the manager who may wish to consider "fast tracking" a redeployee to the formal sickness procedure if high levels of absence continue during the assessment period.

# RESTRUCTURE POLICY

# APPENDIX B

## INTRODUCTION

## SCOPE OF THE POLICY

## GENERAL PRINCIPLES

## FLOW CHART & TABLE FOR GUIDANCE

## METHODS OF SELECTION POSTS IN A NEW STRUCTURE

- Assimilation

- Interview Process

- Management Assessment

## EXPLANATION OF RING FENCES

## REDUNDANCIES

- Issuing redundancy notices

- Early retirement and redundancy payments

- Awards of increased membership

- Multiple contracts

- Dismissal during redeployment assessment period

- Failure to co-operate with the process

## EQUAL OPPORTUNITIES

- Discrimination

- Employees with a disability

- Trade Union officials on full time release

- Pregnant women and women on maternity leave

- Equalities monitoring

- Equalities impact assessments

**Appendix A; Statutory Requirements**

## **Introduction**

The Council's Restructure procedure was approved by General Purposes Committee on xxx to take immediate effect.

The current procedure is set out in full below.

## **Scope**

This procedure applies to all Council employees, except those employed at schools/colleges under Local Management of Schools, which have their own procedures. It will not apply to staff within the purview of the JNC for Chief Executives or Chief Officers or to centrally employed teachers where LMS process will apply. This policy does not apply in a TUPE (transfer of undertakings) situation.

## **General Principles**

This policy sets out the legal and organisational responsibilities that will be met when restructuring and redundancy is necessary. Appendix A outlines the definition of redundancy and statutory requirements.

Restructuring may occur due to the following reasons, although this is not an exhaustive list:

- Closure of a service
- Change in funding
- Change in legislation
- Change in working practice
- Re-organisation to meet business needs

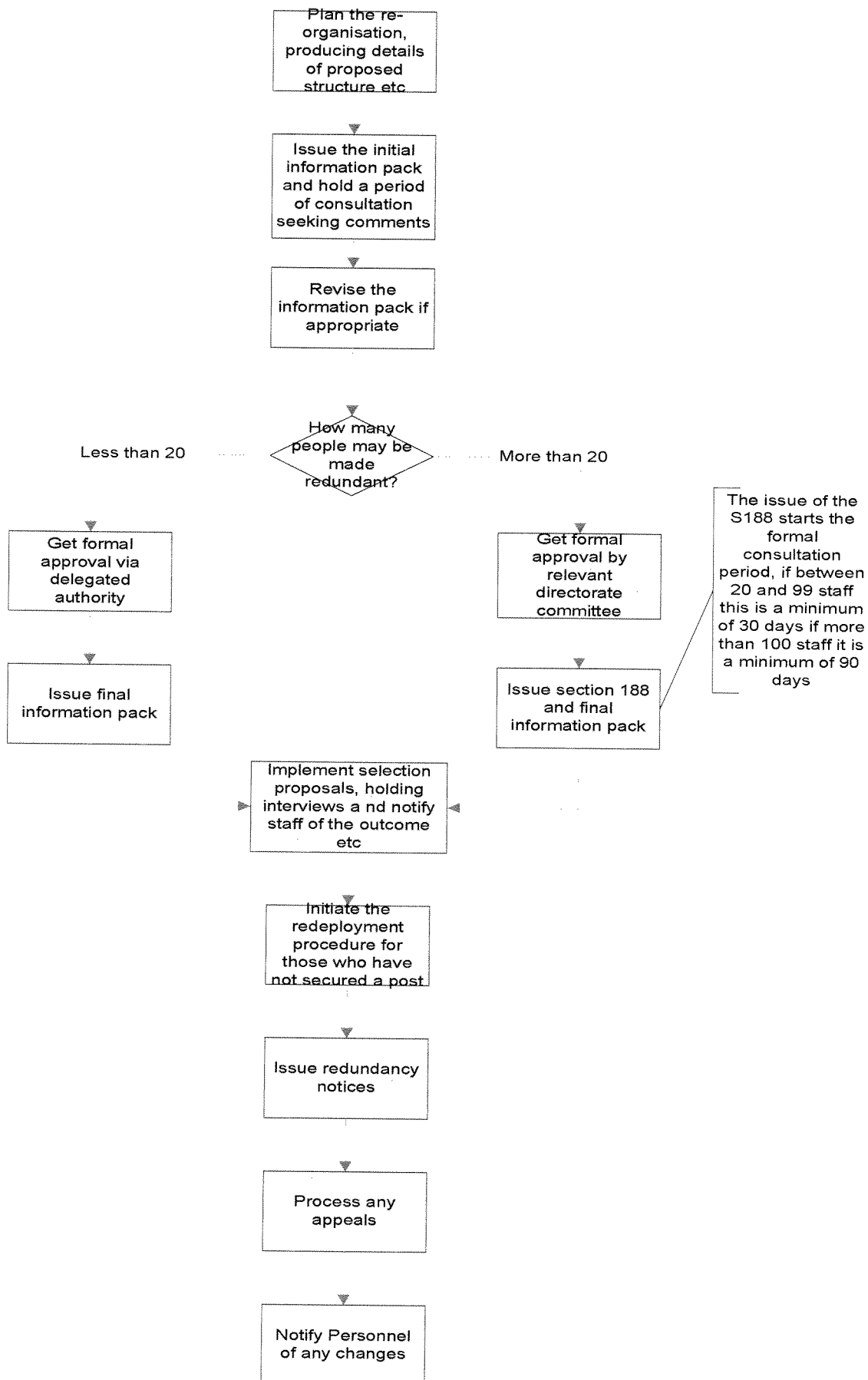
Where possible the Council will look at ways to minimise any redundancies arising from restructuring. The Council may for example place recruitment freezes, reduce overtime unless absolutely necessary for the effective running of the service, implement temporary voluntary downgrading, or redeploy staff into suitable posts in other areas (please see the redeployment policy for further information on the redeployment process).

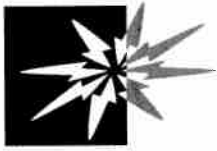
## **Flow Charts & Tables for Guidance**

Flow chart: Showing the process for restructuring where redundancies are likely

Table for Guidance: Shows a summary of the procedure to be followed.

# FLOW CHART FOR RESTRUCTURING WHERE REDUNDANCIES ARE LIKELY TO OCCUR





**Haringey** Council

**Table - STAGES IN RESTRUCTURE**

<b>Action</b>	<b>Item to be covered</b>
Planning	<ul style="list-style-type: none"> <li>▪ Plan the reorganisation</li> </ul>
Consultation	<ul style="list-style-type: none"> <li>▪ Issue information pack to all employees and to trade unions. (Details of what should be included in the information pack are given in the Management Guidance)</li> <li>▪ Ensure that employees who are absent for any reason (i.e due to long term sickness, maternity leave, sabbatical, secondment or for other reason), are also included as part of the consultation process.</li> <li>▪ Allow a reasonable period for staff and unions consultation on the proposals, including meetings of managers and groups/ individuals affected by the change.</li> <li>▪ Make changes to proposals if justified following consultation.</li> <li>▪ Notify employees and trade unions of finalised structure and proposals through a series of one to one and group discussions.</li> <li>▪ Informal notification of intentions may be given to trade union representative at the beginning of the process. The 30 or 90 day period of formal consultation will begin only when there is sufficiently detailed information available and sent to individual employees which would enable them to identify how they may be affected.</li> </ul> <p>Note – A reasonable period of consultation will be determined by how many people may be made redundant. If up to 99 people may be made redundant then at least 30 calendar days consultation must be allowed. If it is 100 or more people then 90 calendar days must be allowed.</p>
Formal approval of the new structure	<ul style="list-style-type: none"> <li>▪ Where the changes affect 20 or less posts, complete a delegated authority form or if it affects more than 20 posts prepare a report for cabinet/ committee and get member approval on the new structure</li> </ul>
Implementation	<ul style="list-style-type: none"> <li>▪ Implement selection proposals</li> <li>▪ Hold a series of one to one discussions with staff followed by a letter letting the employee know the outcome of the selection process</li> </ul> <p>Organise any other staff communication initiatives, awaydays, workshops, etc.</p>
Notification of changes	<p>Notify HR of any changes in staffing arrangements and refer displaced staff for redeployment</p>

## **METHODS OF SELECTION FOR POSTS IN THE NEW STRUCTURE**

None of the methods described below need be applied exclusively. Indeed there may be differing circumstances within a single section, unit or division which need differing approaches or a combination of approaches. Management will need to justify the reasons why a particular selection method or combination of methods was chosen during the consultation stage. Advice could be sought from the HR Section.

On occasions there may be the need to close a specific unit which will result in all the staff being displaced. It is possible for a unit closure to be a single employee. The identification of a unit or section for closure will not automatically result in the people who work within it being declared redundant. Consideration will be given to whether the affected employees can be redeployed elsewhere within the Directorate or they may be referred to the corporate redeployment register.

In most restructures the need to use a number of selection processes will be needed. These include –

- Assimilation
- Management Assessment
- Interviews
- Tests/ Assessments (the Management Guidance gives details relating to testing)

A combination of the above methods

### **Assimilation**

Assimilation will be used as part of these processes in very clearly defined circumstances i.e:-

- i) where the post(s) is (are) substantially unchanged.
- ii) where the number of post holders is the same as or less than the number of posts.

Interview processes including tests as appropriate

Interview processes and tests should be used when functions are changing/being organised in a different way and there are new posts that need to be filled.

### **Combination of Selection methods**

Where closed ringfences arise then a number of methods may be used including management assessment, interviews and tests/ assessments.

### **Management Assessment**

At least two managers will carry out the assessment, one should be the employee's line manager and the second either a manager unconnected with the restructure or a

member of HR. The managers should use the person specification as means of assessing an individual's suitability for the post by assessing how each person meets the specification based on their knowledge of the individual. This assessment will be based on the following information:

- The employee's statement and relevance to the selection criteria
- Factual information such as attendance, timekeeping, capability and disciplinary action will be taken into consideration.
- Tests/ assessments of the individual relevant to the level of work that they undertake.
- Appraisal and supervision records.

Further advice regarding assessments and role of the line manager is given in the Management Guidance.

Whether an element from the candidate specification can be used as a selection criterion for assessing employee suitability will depend on the following:

- Whether accurate information is available regarding the selection criteria and whether it will provide a reliable basis for assessment
- Whether it will meet the necessary degree of selectivity e.g. if everyone has the same qualification using this as a selection criteria would not be appropriate.

Selection criteria must be developed and each criteria weighted in-line with its importance.

Copies of the completed Assessment Proformas will be provided to the individual employees on request. Employees may ask for management to undertake a review of the assessment with regard to any disputed factual information. Where an employee continues to be dissatisfied with the assessment they can request that another manager reviews the assessment criteria.

## **EXPLANATION OF RING FENCES**

The drawing of ring fences is an essential first step in the compulsory selection process. Ring fences will be determined for groups of identical or similar posts. Having established which posts fall within a given ring fence, a decision has to be made as to which existing post holders are qualified to apply for posts within a given ring fence. These arrangements will be the subject of local consultation. Normally ring fences will be confined to the Directorate or a geographical site if employees are unique to that site. Generally employees will not be ring fenced into a selection process where there is clear promotion i.e. more than one grade. The exception to this may be when an individual is employed on a range or linked grade, in this situation, the case will be considered on an individual basis and advice from HR must be sought. The potential equality impact implications will be taken into account before a decision is made. Where one or more employees have been acting up into a higher graded post, the normal process shall be that they enter into a ring fence with other employees at their



substantive grade and be considered for a new post/redeployment at their substantive grade.

The following examples illustrate how ring fences will be determined. These examples are illustrative and not exhaustive.

**A A Group Of Identical Posts Being Reduced**

A ring fence is drawn round the reduced number of posts and all existing postholders are able to be considered for these posts.

**B A Group Of Similar/Interchangeable Posts Being Reduced**

Where a group of similar/interchangeable posts is being reduced/restructured it may well be appropriate to draw a ring fence around all such posts. In these circumstances the posts will not necessarily be the same grade, although generally there will not be excessively wide range of grades. Employees who currently occupy posts that have duties/responsibility and require skills/experience that have significant overlap with the new posts will be able to be considered for these posts. Such ring fences may well encompass posts from more than one existing operating unit.

**C Open/Closed Ring Fences**

Ring fences will be declared to be open or closed dependent upon any change in skills, knowledge or experience required for the restructured posts. In an open ring fence posts will only be filled where it is judged that applicants adequately satisfy the candidate specification. Consequently although the number of applicants may exceed the number of posts not all posts will necessarily be filled.

In a closed ring fence all posts will be filled where the number of applicants equals or exceeds the number of posts within the ring fence.

Generally open ring fences will apply to groups of higher graded posts.

**D "Cascading" Ring Fences**

Where reductions/changes in the organisation are required at succeeding levels it will be necessary to establish a series of ring fences for each level or tier. The selection process will start at the highest level and work down. In these circumstances employees who are not successful in one ring fence may be considered in the ring fence at the tier below providing that the posts in this tier are not more than 1 grade below the individual's substantive grade. It will not be possible for the individual to be considered in any further ring fences in the 'cascade'.

Those who are unsuccessful in securing a new post will be referred to the redeployment register; if redeployment is unsuccessful a dismissal notice will be issued.

## **REDUNDANCIES**

### **Issuing redundancy notices**

All redundancies need to be approved by the Section 151 Officer and Head of HR. For redundancy approval to be granted normally the manager needs to demonstrate that sufficient time and effort has been spent seeking suitable alternative work for the employee. Failure to do so will likely cause the application for redundancy to be rejected.

Advice on the appropriate timing of the issuing of notice of redundancy should be sought from HR.

### **Early Retirement and redundancy payments**

Council policy on redundancy and early retirement payments is determined by General Purposes Committee.

The Council exercises its discretion in relation to early retirement and redundancy payments under the following:

- The Local government (Early Termination of Employment) (Discretionary Compensation) (England & Wales) Regulations 2006
- The Teachers (Compensation for Redundancy and Premature Retirement) amendment Regulations 2006
- The Local Government Pension Scheme (Membership Contributions and Benefits) Regulations 2007
- The Employment Rights Act 1996

### **Awards of additional Pensionable membership**

The Council's policy is not to award added membership in cases of redundancy. .

### **Multiple Contracts**

Where a member of staff has two or more current contracts and is being made redundant from only one of them, the start date of this contract will be used as the start date for any redundancy calculations.

Where an employee has one contract at the point of leaving but in the past had two overlapping contracts (with no break in service) the length of service can be counted from the first contract.

### **Dismissal during redeployment assessment period**

If a person is dismissed during their assessment period as a consequence of capability due to ill health or because of disciplinary action, this and not redundancy would be taken as the reason for leaving. A redundancy payment would therefore not be made.

### **Failure to co-operate with the process**

In the event of an individual unreasonably rejecting a suitable position, they will be considered as not co-operating with the redundancy process and will jeopardise all or some elements of their redundancy payment. If no redundancy payment is made then the reason for leaving will be deemed as voluntary resignation.

## **EQUAL OPPORTUNITIES**

### **Discrimination**

The application of selection methods must ensure that all forms of discrimination is avoided and complies with the Council's Equal Opportunities Policy, current legislation and case law.

### **Employees with a Disability**

Any employee with a disability will be considered at the same time as other employees with a decision being made solely on grounds of suitability for the post. The Council will make reasonable adjustments to accommodate the employee in carrying out the job as required by the Disability Discrimination Act 1995 (revised 2004 and 2005).

### **Trade Union Officials on Full-Time Release**

Trade Union officials on full-time release will be exempted from any selection process for the duration of their term of office, after which the individual will become supernumerary and be dealt with by whatever process (redeployment or redundancy where there is no suitable alternative post) that prevails in the Council at that time. In these circumstances advice must be sought from the Head of HR.

### **Pregnant Women and Women on Maternity Leave**

Although it is automatically unfair to dismiss an employee for a pregnancy related reason, any employee can be fairly dismissed if the reason is one of redundancy and is not connected to her pregnancy and/or maternity leave. Where the Council has to make redundancies and the pool of employees from which a selection is to be made contains any employees who are pregnant and/or on maternity leave, this will not affect the implementation of the redundancy programme. There are however a number of specific points which must be addressed:

Employees who are pregnant and/or on maternity leave have a right to be fully consulted with during a restructure or re-organisation, even if they have already indicated that they do not want to return to work. Employees who are already or who

become absent on maternity leave must be included in the consultation and selection process in the usual way.

Consultation must take place individually and collectively. Failure to consult may allow an employee to claim that she was unfairly selected for redundancy.

The selection criteria must not be directly or indirectly biased against pregnant women or those on maternity leave. When finalising the criteria for any redundancy programme, women on maternity leave must not be prejudiced e.g. by their absence.

Employees who are pregnant and/or on maternity leave have a right to be offered a suitable alternative post, where her skills and experience match the candidate specification. However, only pregnant employees who have already commenced a period of maternity leave must be offered suitable alternative employment (\*) in preference to any other employee who is similarly affected by redundancy. A failure to do so will make any dismissal as a result of the redundancy programme automatically unfair.

*(\*) Suitable alternative employment means the work to be done is suitable in relation to the employee and appropriate for her to do in the circumstances, and the provisions of the contract as to the capacity and place in which she is to be employed and the other terms and conditions are not substantially less favourable than they would have been if the employee had continued to be employed under the previous contract.*

The provisions of a new contract regarding the capacity and place in which she is to be employed and the other terms and conditions should not be substantially less favourable than they would have been if the employee had continued to be employed under the previous contract.

In a redundancy situation where no suitable alternative employment is identified and a woman is still on any part of her maternity leave, she must still be issued with contractual notice and her last day of service will be the date on which the notice period ends, not the remaining term of her maternity leave if this is longer than her contractual notice.

If during the notice period suitable alternative employment becomes available, a woman on maternity leave must be offered the post.

### **Equalities Monitoring**

To ensure that the redundancy process is carried out fairly, HR will be expected to keep records of the disability, age, ethnicity and gender of those originally identified as being potentially redundant and to enable the process to be monitored and reported to Members, as required.

### **Equalities Impact Assessments**

An equalities impact assessment will be completed on the proposed changes to the establishment structure. Where direct or indirect discrimination is identified the proposal should, where appropriate be adapted to mitigate any potential discrimination.

## **Appendix A: Statutory Requirements**

For entitlement to redundancy payments, under the Employment Rights Act 1996, redundancy arises when employees are dismissed because:

- the employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was so employed; or
- the employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed; or
- the requirements of the business for employees to carry out work of a particular kind has ceased or diminished or are expected to cease or diminish; or
- the requirements of the business for the employees to carry out work of a particular kind, in the place where they were so employed, has ceased or diminished or are expected to cease or diminish.

For the purposes of trade union consultation the following point also applies:

- dismissal for a reason not related to the individual concerned or for a number of reasons all of which are not so related

This would cover redundancies due to restructure, introduction of new technology, new working practices etc

### **Consultation with Trade Unions**

The Council is also required to follow procedures contained within the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRA) (S188) and the Trade Union Reform and Employment Right's Act 1993 (TURER) to consult trade union representative(s) when proposing to dismiss as redundant an employee.

Where 20 or more staff are to be made or likely to be made redundant within a period of 30 days or less the appropriate senior manager or their authorised delegated officer must complete a Section 188 notice. This provides trade unions with a clear indication of what is about to happen. The contents of a Section 188 notice will always contain the following:

1. The reasons for the proposed redundancies;
2. The numbers and descriptions of employees it is proposed to dismiss as redundant;
3. The total number of employees within the employee group of the Council;
4. The way in which employees will be selected for redundancy;
5. How the dismissals are to be carried out, including the proposed method of calculating the amount of any redundancy payments to be made and timescales.

Most of the information within a Section 188 notice will be contained within the information pack given to the unions at the start of the consultation about the reasons for changing the structures and is also outlined within this policy. Details regarding the information pack contents are given in the Management Guidance.

Once the Section 188 notice is issued, there a number of actions to be followed in line with the agreed consultation, communication plan and processes contained within this policy.

There are minimum time periods set out for trade union consultation depending on the number of staff potentially being made redundant.

<b>Number of staff</b>	<b>Minimum consultation period</b>
Up to 99 staff to be made or likely to be made redundant within a period of 30 days or less	30 days minimum statutory consultation period before giving notice to terminate an employee's contract of employment.
100 or more staff to be made or likely to be made redundant within a period of 30 days or less	90 days minimum statutory consultation period before giving notice to terminate an employee's contract of employment.

#### **Notification to secretary of state**

Where 20 or more staff are to be made or likely to be made redundant within a period of 30 days or less the appropriate senior manager or their authorised delegated officer must notify the Secretary of State of intended Redundancy as required under Section 188. This is required under section 193 of the Trade Union and Labour Relations (Consolidation) Act 1992.

#### **Trial Period**

Employees are entitled to a reasonable trial period in any alternative employment offered. The Redeployment Policy gives further information.

#### **Arrangements for training/time off**

Employees with more than one years continuous service are entitled to a reasonable amount of paid time off to look for employment and make arrangements for training.

