

Report for: Staffing & Remuneration Committee, 14 December 2015
Item number: 16
Title: Update to the Restructure Policy and to the Redeployment Policy

Report authorised by : Jacque McGeachie, Assistant Director Human Resources

Lead Officer: Julie Amory, HR Policy Manager, Julie.amory@haringey.gov.uk

Ward(s) affected: All

**Report for Key/
Non Key Decision:** N/A

1. Describe the issue under consideration

- 1.1 Two minor amendments are required to the Restructure Policy and the Redeployment Policy approved by this committee on 29th July 2015. The amendments are required firstly to ensure that the policies adequately define at what point an offer of Suitable Alternative Employment (SAE) occurs for employees on ordinary adoption leave, additional adoption leave, on shared parental leave or maternity leave (later referred to in this report as Family Leave excluding Paternity leave) where a redundancy situation arises. Secondly to clarify that this specific requirement does not apply to employees on paternity leave.

2. Cabinet Member Introduction

- 2.1. N/A

3. Recommendations

- 3.1. That the Committee note and approve the amendments detailed in the report.

4. Reason for decision

- 4.1 A recent Haringey case highlighted the need for our existing policies to be clarified. The clarification is in line with the judgement given in Employment Appeal Tribunal case Sefton County Council v Wainwright. Although our existing policies are consistent with the case, it was agreed with Legal Services and the Trade Unions that it would be beneficial to further clarify at what stage of the restructure and redeployment process a suitable alternative offer be sought.

5. Alternative options considered

- 5.1 The alternative to the proposed recommendation is to wait until the next scheduled review of these policies in two years to make the amendment. This alternative is not seen as acceptable as there are operational benefits to the Council when it comes to applying the policies if the amendments are made at this point as it will ensure clarity on the issue of when an offer of suitable alternative employment is made to the class of employees mentioned throughout this report.

6. Background information

- 6.1 The Sefton Borough Council v Wainwright case mentioned above at paragraph 4.1 decided that once a redundancy situation arose an employer having decided that the position of an employee who is on maternity leave would be deleted then the statutory duty under Regulation 10 of the Maternity and Parental Regulations 1999 would apply. The Regulation requires the employer to offer the employee, where it is available, a suitable alternative vacancy before notice of dismissal is issued and before the process of seeking to match displaced employees to posts in the new structure.
- 6.2 Equivalent provisions to Regulation 10 apply to those employees who are on ordinary or additional adoption leave, or on shared parental leave, when a redundancy situation arises. There is no equivalent provision to Regulation 10 for employees on statutory paternity leave.
- 6.3 The two policies have been updated to ensure that there is clarity on the point when the offer of a suitable alternative employment is made to an employee who is on ordinary adoption leave, additional adoption leave, on shared parental leave or maternity leave.
- 6.4 **Changes to the Restructure Policy July 2015**
The current paragraph in the policy states:

“Employees who have already commenced a period of statutory maternity or Family Leave and where the decision has been made for their post to be made redundant must be offered suitable alternative employment, where it is available, 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”.

The proposed amendment is as follows with the revised text in bold font:

“Employees who have already commenced a period of statutory maternity or Family Leave (**with the exception of paternity leave**) and where the decision has been made for their post to be made redundant **on completion of Step 3 of the restructure** must be offered suitable alternative employment, where it is available, in preference to any other employee who is similarly affected by redundancy”.

6.4.a **Changes to Table 3 - Steps in the Restructure – Restructure Policy July 2015**

A new paragraph has been added to the table at section 4.1.5 of the Restructure Policy July 2015 to ensure that the clarified issue is reflected in the table.

6.4.b The new paragraph states:

‘On conclusion of the consultation process i.e. at the completion of Step 3, where it is available, in preference to any other employee who is similarly affected by redundancy and before the process of seeking to match displaced employees to posts in the new structure an employee who is on ordinary adoption leave, additional adoption leave, shared parental leave or maternity leave must be offered suitable alternative employment.’

6.5 **Change to the Redeployment Policy July 2015**

The current paragraph in the policy states:

*“Within the Redeployment Pool employees who are on Family Leave have the right to be offered any suitable alternative post, where their skills and experience are matched to a suitable vacancy. However, only these employees who have already commenced a period of ordinary maternity leave, adoption leave, **extended paternity** or shared parental 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.”*

The proposed amendment is as follows. The extended paternity leave has been removed from the second sentence:

“Within the Redeployment Pool employees who are on Family Leave have the right to be offered any suitable alternative post, where their skills and experience are matched to a suitable vacancy. However, only these employees who have already commenced a period of ordinary maternity leave, ordinary adoption leave, additional adoption leave, shared parental 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.”

7. Contribution to strategic outcomes

7.1 The Council’s Corporate Plan sets out an ambitious agenda, and one that will require significant change to deliver. The council will be smaller and it will need different skills sets in many areas. To support these goals the Council created a Workforce Plan that shows how it intends to create an agile workforce that can help. An element of this Workforce Plan is to have effective and clear HR policies.

8. Statutory Officers' comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities

8.1 Comments of the Chief Finance Officer & Financial Implications

The Chief Finance officer has no comments to raise on the contents of this report.

8.2 Comments of the Assistant Director Corporate Governance and Legal Implications

The proposed amendments to the Restructure and Redeployment Policies will help ensure that these Policies comply with current case law.

8.3 Equalities and Community Cohesion Comments

Council Policies apply to all Council employees, except all staff appointed by schools operating under the Local Management of Schools, who have their own procedures. Policies and procedures will be varied for certain senior staff to ensure compliance with local government law and JNC conditions of service for Chief Executives and Chief Officers. We are working towards making sure that all our employment policies are of the highest possible quality to enable equality, equity and consistency in working practices.

9. Use of Appendices

None

10. Local Government (Access to Information) Act 1985

10.1. N/A