

## MANAGING CHANGE POLICY & PROCEDURE

**EXECUTIVE MEMBER:** Councillor John W Bowman  
**LEAD OFFICER:** Darienne Law, Head of Corporate Resources  
**REPORT AUTHOR:** Len Gleed, Human Resources Manager

**WHAT BENEFITS WILL THESE PROPOSALS BRING TO COPELAND RESIDENTS:** The proposed Policy will contribute to the Council's Implementation Plan within the overall performance theme "Delivering excellent service and value for money services".

### WHY HAS THIS REPORT COME TO THE EXECUTIVE?

The Executive has the constitutional authority in relation to "Consideration and recommendation of strategic policies in relation to employment matters, personnel recruitment and training, industrial relations and human resource planning", while the Personnel Panel is required, as part of its constitutional role, to "To consider and advise Executive and Council on development of all policies on employment....."

The proposed Policy has been recommended to the Executive by the Personnel Panel for adoption, subject to the modification requested in this report.

### RECOMMENDATION:

That the Executive agrees to adopt the proposed Policy.

## 1. INTRODUCTION

1.1 The Council reviews its human resources policies and procedures from time to time, to ensure that they embody employment law requirements and best practice.

1.2 In drafting the proposed Managing Change Policy and Procedure (attached as Appendix A), the intention is to bring together a number of policies and procedures relating to organisational change, which have previously existed separately, into a single comprehensive document.

1.3 The draft policy and procedure essentially reflects the policies and practices which have been operated by the Council in recent times. The proposed document sets out in a single policy and procedure the processes which were required and operated during the period of rapid change in 2010/11 which led up to the redundancies which took effect on 31 March 2011 in order to ensure a sustainable budget for the current year.

That period of change was managed in close consultation with the Council's recognised Trades Unions

## **2. ARGUMENT**

2.1 The proposed policy and procedure has been through a substantial process of informal consultation with the Corporate Leadership Team and Trades Unions. It has been discussed at the regular Single Table Trades Union Group meetings, most recently on 8 November 2011. A 4-week formal consultation period ended on 14 October. A number of modifications were made to the draft policy in response to consultation feedback.

3. The draft policy attached as Appendix A is the document approved by the Personnel Panel, with one further modification made in response to Trades Union consultation feedback. Section iv on page 18 and section 10 on page 27 relating to pay protection now specify a protection period of one year where they had previously left the period unspecified and subject to discussion at the time of any given restructuring.

## **4. CONCLUSIONS**

4.1 Executive is requested to adopt the proposed Policy.

## **5. WHAT ARE THE LEGAL, FINANCIAL AND HUMAN RESOURCES IMPLICATIONS?**

5.1 The legal implications of this report are:

The Monitoring Officers comments are: No comments on report or draft policy.

5.2 The financial implications of this report are:

The Section 151 Officers Comments are: Any financial consequences of the implementation of the policy will need to be considered as part of the Councils budget framework.

### **List of Appendices**

**Appendix A** Draft Managing Change Policy & Procedure

**List of Background Documents: None**



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# **Managing Change – HR Policy and Procedures**

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## 1. Scope

The policies and procedures outlined in this document are those identified as key in enabling Copeland Borough Council to respond effectively to change in order to maintain an effective workforce fit and trained to deliver its services. They sit alongside other HR policies that can be accessed via the Intranet or on request from HR. Those most closely aligned to the management of change are listed in Appendix 4 of this document

They apply to all employees of the Council whose terms and conditions of employment are governed by the National Agreement on Pay & Conditions of Service of the National Joint Council for Local Government Services (The "Green Book"). The broad principles of the policy also apply to Chief Officers, subject to the particular procedures set out in the relevant National Agreement (The "Blue Book").

## 2. Managing Change – Key Principles

Copeland Borough Council is committed to the continuing transformation of its services and to ensuring the organisation can respond flexibly to the new challenges and opportunities it faces. New ways of working are constantly sought in order to make best use of all the Council's resources, physical and human.

It is Council policy to ensure, as far as possible, security of employment for employees during periods of change. It is recognised that there may be changes in organisational requirements that may affect workforce requirements. These changes may require alterations to job requirements and possibly a reduction in the number of jobs. It is the Council's intention, in consultation with the Trades Unions, and so far as is reasonably practicable, to achieve these changes without the need for compulsory redundancies.

The HR policies and procedures in place reflect this commitment and provide a framework for managing change effectively, fairly and consistently, through planning, consultation, and communication and in accordance with established good practice and employment legislation and with full regard to the Council's Corporate Equality Scheme.

### 2.1 Equality and Diversity

The Council has a duty to:

- Eliminate unlawful discrimination
- Promote equality of opportunity
- Promote good employee relations

The Council recognises its responsibility to ensure that no-one is discriminated against or disadvantaged either through membership of any particular group or on the grounds of age, disability, gender, race, religion, or sexual orientation. Please refer to the Council's Corporate Equality Scheme for additional information.

This scheme has been assessed as being a key component in ensuring that the Council fulfils its duties under anti-discrimination legislation. The Council will continue to regularly monitor it, taking action as and when necessary.

## **2.2 Elected Member Consultation and Engagement**

Major change will be an integral part of the business planning process which naturally includes consultation and engagement of appropriate elected members. It will be the responsibility of Corporate Directors and Heads of Service to continue this engagement with elected members as appropriate throughout the change process.

It is not expected that elected members will be formally involved in minor changes but will be appraised of changes when and if appropriate by Heads of Service.

## **2.3 Employee Consultation and Engagement**

Formal and informal consultation is an essential stage in managing organisational change affecting groups of employees. Managers will be actively prepared to embrace their responsibilities to consult and engage with employees and where appropriate trade union representatives. There are statutory processes that need to be incorporated in consultation exercises. However, outside of these statutory requirements, effective consultation is recognised as a key management and leadership tool to enable change to be implemented successfully.

Actively engaging with employees and their representatives during change will be given priority attention.

The Council will consult with recognised trade unions and employees on issues which:

- Involve change to contracts of employment, other than where all individuals affected by the changes are in agreement
- Relate to discretionary aspects of implementation of national agreements
- Potentially lead to redundancy
- Involve major changes in working practices, location of employees, etc, irrespective of whether these changes are provided for in the employment contract.
- Involve introduction of or changes to local procedural arrangements

The main vehicle for signalling changes to the Trade Union representatives will be the Council's joint Single Table Trade Union Group (STTUG) which meets regularly.

It will be the managers' responsibility to highlight any issues with their HR Advisor or the HR Manager to ensure appropriate consultation takes place.

## **2.4 Communication**

Appropriate and effective communication with the workforce and its representatives is vital when managing change. The Council is committed to ensuring an appropriate communications plan is in place throughout the process.

This will include:

- Early understanding of the drivers for change
- Full involvement invited from employees and Trades Unions throughout the informal and formal consultation processes
- The opportunity for employees to be accompanied by their Trade Union representative or a work colleague in all one-to-one meetings
- Regular written updates during periods of major change
- An open door policy to discuss concerns openly with the Chief Executive/Corporate Directors
- An opportunity to ask questions anonymously that will be answered as part of a Frequently Asked Questions facility

## **2.5 Key Personal Competencies in the Change Process**

Employees within Copeland Borough Council will ensure they respond to any change by:

- Positively embracing the need for change
- Contributing to change proposals
- Supporting and promoting the organisational approach to the change agenda
- Using effective communication and consultation skills
- Demonstrating an approach of equality, fairness and consistency
- Showing dignity and respect for others
- Engaging openly throughout the process

## **2.6 Training and Development Support**

The Council's Workforce Strategy will provide details of skills requirements to meet the Council's changing needs of the future. Training and coaching advice will be made available to employees, as required, throughout the change process and, where possible, to support their continued employability with the Council. These will be addressed in accordance with the personal development planning section of the Council's Employee Performance Management Process.

## **2.7 Record Keeping**

The keeping of accurate records, be it of a formal or informal nature, is crucial during any management of change process. HR will set up an individual personal file for each affected employee during a period of change. It will be the responsibility of all involved to ensure that detailed and appropriate records are kept up to date. This will include details of any conversations and any email correspondence. At the end of the process HR will transfer the package of records into the individual's HR personal file. Accurate records are of high importance in cases where the fairness of a dismissal is challenged.

## **2.8 Human Resources Management Advice**

The Human Resources section will be available to provide advice and guidance, as required, on the management of organisational change and the application of this policy. They will work with managers to ensure that this policy is complied with when making any changes to structure and/or roles. They will also support managers in applying this policy.

## **2.9 Compliance with the Law**

At all times the application of this policy and the procedures contained herein will meet, at a minimum, statutory legislation requirements.

# **3. Organisational Restructure**

All teams within organisations at some point in time find themselves in the situation where they need to change their existing structure(s) to meet changing business needs. The following procedures should be followed when proposing change:

## **Section A – Procedures for Managing Minor Change**

Reasonable minor changes and adjustments to duties and working practices may be implemented without recourse to the formal procedures in this document. Examples of minor changes to meet business needs can include implementation of different methods of carrying out tasks, introduction of new technology, and changes in duties within the broad remit of the post. Minor change does not apply to any case expected to lead to a redundancy situation.

Whilst formal consultation is not required for minor change, employees should still be consulted about changes that have an impact on their work. Managers should meet with employees either individually or collectively to explain the reasons for the need to implement minor changes, and to ask for views before implementation. Employees are permitted to be accompanied by a Trades Union representative or work colleague at a meeting to discuss changes to duties and working practices. This does not negate the right of a manager to meet with a member of staff, on a one-to-one basis, to discuss day to day working issues.

Managers should seek advice from their Human Resources Adviser when reviewing minor changes that will have an impact on their team, particularly if it is likely to result in the variation of employees' contracted terms of employment where there are legal steps to be followed. Proposed changes to line management should also be discussed with HR, ideally prior to consultation, to identify if Sections A or B of this procedure should be used.



## **Section B – Procedures for Managing Change Due to Organisational/Departmental Re-structure**

Where it is necessary to propose restructuring a service, department, or section, the Council's constitutional procedures regarding delegated functions and the roles of Full Council, Executive and Personnel Panel must be observed, and the following procedural stages should be followed:

### **STAGE 1 – MANAGEMENT PLANNING AND INFORMAL EMPLOYEE CONSULTATION**

Managers considering changes to organisational structures and/or roles which go beyond the definition of minor change must gather information to support the need for change and prepare a business case, taking advice, where appropriate, from their Human Resources adviser.

Communication of the Council's challenges/opportunities from the annual financial and service planning process alerts employees and Trades Unions to potential changes needed in the future. It is however expected that managers will begin informal consultation as soon as possible with team/departmental employees outlining to them the issues and the need for change and to invite them to contribute ideas/comments for the business case. It is the responsibility of managers also to ensure that those employees on secondment, sickness absence, maternity leave or any other absence from work are included.

If the proposal is to change the duties of a post or create new posts, job profiles should be updated or created at this stage. Once job profiles are completed they should be job evaluated at the earliest possible stage to confirm the grades of new or changed posts. Indicative grades will not be accepted within a restructure report.

The Business Case should consider including the following:

- Details of the current situation including total number of employees in the affected part of the organisation and the current organisational structure
- The reasons for change, and the rationale behind the proposed change
- The options considered
- The proposals for change (including any revised organisational structure) outlining:
  - New roles created
  - Roles that would meet the assimilation criteria
  - Roles being removed and therefore potentially redundant
- The benefits of the proposals
- The risks and implications of not changing
- The financial and HR implications of the proposals, including any potential redundancy or early retirement pension funding costs
- Details of the proposed consultation timescale, schedule of meetings, and proposed timescale for implementation of the desired changes
- Feedback from informal consultation with employees within departments affected

Any employee on secondment at the time of a restructure will be considered against their substantive post for the purpose of the restructure.

The Business Case will be presented to the Corporate Leadership Team (CLT) for approval prior to proceeding to Stage 2 of this procedure.

## **STAGE 2 – EMPLOYEE & TRADES UNION FORMAL CONSULTATION**

Following CLT discussion and approval, the responsible manager will brief their team(s), confirming the reasons for the proposed changes and which posts will potentially be affected – i.e. if there are to be any deleted posts, any proposed posts and new grades, any ring-fenced posts, and providing a copy of the draft report.

Formal consultation may take place in different ways, which may include both individual and collective consultations. Where it is likely that potential redundancies will occur, employees within the affected areas will be briefed of the potential proposals on a one-to-one basis.

Members of the Single Table Trade Union Group will be notified of the formal consultation situation immediately following the employee briefings.

The purpose of formal consultation meetings with employees and Trades Unions includes the following:

- To receive and where possible address any questions on the proposals for change
- To benefit from any constructive ideas put forward by employees or Trades Unions
- To consider any comments or views on the change proposals as a basis for determining any final decision to proceed or otherwise
- To seek to agree change principles, procedures and communication approaches specific to any particular change process

**FOR MINOR PROPOSALS, NOT INCLUDING POTENTIAL REDUNDANCIES, THE CONSULTATION PERIOD WILL BE 14 DAYS.**

**FOR RESTRUCTURING PROPOSALS THAT INCLUDE POTENTIAL REDUNDANCIES THE CONSULTATION PERIOD WILL BE 30 DAYS, UNLESS THE RELEVANT STATUTORY PROVISIONS REQUIRE MORE.** (See Redundancy Policy and Procedures Details, page 18 of this document for further details)

Consultation comments will be made in writing to the Business Case author.

All affected employees will be offered the opportunity of individual meetings with the appropriate management representative and, as appropriate, a Human Resources representative. Employees may be accompanied, if they so wish, by a Trades Union representative or work colleague at individual meetings. The purpose of these meetings is to give employees the opportunity to put forward their views about the proposed changes. If, at the end of the consultation period a decision is taken to proceed with the change, employees will be offered the opportunity of further meetings to discuss the impact of the change on their individual role.

Consultation will be based on the free exchange of information, in the spirit of promoting mutual understanding. Where appropriate, regular updates and Frequently Asked Questions may be circulated to employees throughout the process.

It will be the responsibility of line managers to contact any employees who are absent during the consultation period due to sickness, annual leave, or maternity leave, etc., at the same time as other affected employees. The opportunity should be given to those employees directly affected to either come into work to talk to their line manager and HR or to meet at their own home.

Following the end of the initial consultation period, the responsible manager will collate the feedback and complete a feedback summary. This, together with any changes proposed to the final restructure as a result of the consultation feedback, will form part of the report to the Corporate Leadership Team and, if necessary under the Council's Constitution, to the appropriate member committee.

### **STAGE 3 – DECISION TO PROCEED**

Corporate Leadership Team (CLT) will consider once again the business case with the consultation feedback. Following CLT consideration, the report will be:

- Approved by CLT if the proposals do not involve Senior Leadership Team (SLT) posts or management posts reporting direct to SLT, or do not affect 10 posts or more
- Submitted to the Personnel Panel, following CLT approval, by the business case author for approval if the proposals involve SLT posts or management posts reporting direct to SLT, or affect 10 posts or more

Where the proposed changes require funding not currently included in the agreed budget, the Personnel Panel will make recommendations to the Executive and possibly on to Full Council for approval.

If the decision is made to proceed with the proposed restructuring, confirmation will be given in writing to the affected employees and the Trades Unions. It is at this stage that those employees in roles 'at-risk' of redundancy will be formally notified.

### **STAGE 4 – IMPLEMENTATION**

Employees affected by the decision to proceed will receive details from HR, through their direct line manager, of the implementation process, including:

- Details of assimilation, redeployment and redundancy processes
- Intended timescales
- Arrangements for seeking suitable alternative employment
- Invitations for voluntary severance, **if applicable**
- Arrangements for the avoidance of compulsory redundancies, including any relevant salary protection proposals
- Assistance to be given to employees at risk of redundancy

It will be the responsibility of the direct line Manager, unless locally agreed otherwise, to discuss all of the above and the relevant processes, in a confidential discussion with the employee.

HR support will be available to all throughout the process.

#### **STAGE 5 – PROCESS REVIEW**

On completion of all stages of the process a review may be held to identify:

- What went well
- What didn't go well
- What lessons can be learnt for future process improvement

Any learning will be built into future policy and procedure reviews.

The review will, wherever possible, include input from representatives of those involved throughout the process.



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## Appendix 1

# Assimilation Process Human Resources

## **1. Introduction**

In cases of organisational change that affect job structures and changes to posts, part of the business case preparation to support proposed changes will include the manager's analysis of the roles currently in the structure and the effect on them of the new proposed structure.

Assimilation, sometimes referred to as 'slotting-in', is a key part of the initial stages of the overall change process. This can allow the organisation to minimise the disruption for those employees for whom there will be little or minimal change to their current roles in the new structure.

## **2. Assimilation Criteria**

It will be the responsibility of proposing managers, with support from HR where necessary, to identify the roles that meet the following assimilation criteria:

- The proposed post is identical to the current role **OR** includes a minimum of 70% of existing duties
- The proposed post is of commensurate grade (impact of any job changes on job evaluation outcomes will be discussed with HR)
- The current post holder meets the essential criteria for the post as outlined in the job profile

Initial assimilation appointments will be on a 'ring-fenced basis' ie only those employees who are currently doing the job and meet the above criteria will be considered.

Where there is more than one person eligible under the assimilation criteria, posts will be appointed to on a competitive interview basis but still in a 'ring-fenced' environment.

## **3. Assimilation Process**

Departmental management will have the main responsibility for the process with appropriate and active HR support.

On final agreement of the restructure proposals the steps below should be followed:

**3.1** The responsible manager informs employees on a one-to-one basis that they are in roles that meet the criteria for assimilation into new roles within the structure and that they will be invited for an assimilation interview for the post in question. At this stage the manager provides the employee with the appropriate job profile, clarifying the changes made to the original job profile and answers any questions the employee may have.

**3.2** Each employee is invited, by the manager, to an assimilation interview with the manager and an HR representative. The employee will be given appropriate notice of the assimilation interview to allow further consideration of the proposed changes.

**3.3** The responsible manager leads the assimilation interview using the following suggested format, so that:

- The purpose of the interview, and the overall objectives of the changes are explained
- Details of the process to be followed are outlined and receives confirmation from the employee that he/she understands the process and the reason for the changes
- Changes, if any, to the employee's job profile are highlighted to the employee and any differences to the current role are explained
- The employee has an opportunity to express any concerns about the changes
- The employee is asked what impact the changes may have on completion of current performance objectives
- Any training and development needs arising from the changes are discussed
- The employee is given the opportunity to ask any further questions
- the employee confirms their commitment to the changes
- Any questions or concerns, from the employee are followed up within a reasonable timescale.
- The discussion is summarised in writing by the manager and passed to HR for confirmation of the appointment to the employee(s) and for record keeping. HR confirms the appointment in writing with employee(s).

**3.4** Throughout the assimilation process employees are expected to:

- Understand the reasons for the change, as explained
- Contribute to the potential change proposals
- Fully understand and co-operate throughout the assimilation process
- Raise any concerns and ask questions about the changes and resulting impact
- Fully commit to the changes or lodge an appeal if appropriate

## **4 Appeals process**

An employee can appeal against non-assimilation to post.

To exercise the right to appeal the employee must notify the Human Resources Manager in writing within 5 days of being notified of non-assimilation.

When lodging an appeal the employee should state the grounds and brief reasons for the appeal based on the assimilation criteria in Section 2 of this document, supported by the appropriate job profile.

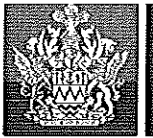
Appeal hearings will take place as soon as reasonably possible upon receipt of the employee's notification of appeal. The employee will be given at least 5 clear working days written notice of the date, time and location of the appeal hearing and the opportunity, if they so wish, to be accompanied by a Trade Union or fellow work colleague.

The Appeal Hearing will be conducted by a Manager from a Service other than that of the employee who is appealing, and will be accompanied by a member of the HR team. The prime role of the HR representative will be to act as management adviser. They will participate fully in the hearing and any discussions about the case, but the decision will be made only by the Appeal Hearing manager.

The procedure to be followed at an appeal will be as follows:

- The employee who is appealing will be invited to present his/her case for appeal.
- An appropriate manager from the Service Unit of the employee who is appealing will present the background and reasons for non-assimilation
- The Appeal Hearing Manager will ask any questions he/she has.
- The Appeal Hearing Manager will review the evidence and come to a decision.
- All decisions will be confirmed in writing within 7 days of the appeal hearing.
- The Appeal Hearing Manager's decision is final.





# **Redeployment Policy & Procedures Human Resources**

## **1. REDEPLOYMENT**

Redeployment is the offer of suitable alternative work to employees in jobs that are 'at risk' of being made redundant to avoid compulsory redundancy and enable them to continue working for the organisation. There is no obligation on the Council to create new jobs for redundant employees, but failure to offer any available suitable alternative employment may make a dismissal by reason of redundancy unfair. At the same time, under the Employment Rights Act 1996, an employee will not be entitled to a redundancy payment if he or she unreasonably refuses a suitable alternative offer or unreasonably terminates the contract during a trial period in a new role.

The redeployment process described in this policy will continue up until the point that an individual's employment terminates or until the employee is successfully resettled in another role within the organisation.

## **2. REDEPLOYMENT DATA BASE**

As part of the Council's commitment to continue employment, all potentially redundant employees will go onto a Redeployment Database for the duration of their 'at risk' status/notice period or until they have been resettled. HR will add the employee's details to the Redeployment Database and will support the employee in identifying suitable roles. During the redeployment period employees held on the Redeployment Database will be informed of any employment opportunities. This will normally be done by email or by hard copy on request to HR. Information about vacancies is also published on the Council's Intranet.

Information on the numbers of employees and their current redeployment status on the Redeployment Database will be available from HR.

Employees with fixed-term contracts that have been extended for a period of 24 months or more will, if likely to be affected by the proposed changes, also be considered as redeployees.

During the redeployment period, employees in potentially redundant posts will continue to work in their existing role.

## **3. PRIORITY CONSIDERATION**

Employees on the Redeployment Database will be given priority consideration for vacant posts at the same grade as, or below, their current post. If there is no redeployee interested in, and appropriate to, a vacant post, the vacancy will be opened up to all internal applicants.

#### 4. PROCESS

##### I. Post filling

The overriding consideration is the objective of minimising the number of compulsory redundancies, in line with the Council's policy. The procedure is not, therefore, able to take account of individual employee aspirations as regards career changes, promotion, or simple desire for a change of environment. The procedure is designed to find best-matched posts for all employees who are included on the Redeployment Database. The stages of the redeployment process will be progressed simultaneously across the organisation, so as to make the process as open and fair as possible in line with this key objective. Throughout the process, redeployees will have opportunities for review of their situation with their line managers, Heads of Service and/or HR staff.

Lists of new or vacant posts will initially be notified to those on the Redeployment Database.

The stages of the post-filling procedure are as follows:

##### **STAGE 1:**

When new or vacant posts have vacancy management approval to be filled, applications will initially be restricted to redeployees whose current grade is the same as, or higher than, the grade of the new or vacant post. Redeployees will be asked to indicate, using the appropriate Expression of Interest form (**R1/2011**), which post(s) they wish to be considered for. Separate Expression of Interest forms should be completed for each role the redeployee is interested in. If they meet the essential criteria of the job or with a reasonable amount of training could do so, they will be interviewed for the post(s) by relevant management representatives.

##### **STAGE 2:**

If the vacancy is not filled by a redeployee after Stage 1, the vacancy will be internally advertised, and open to applications from **any interested employee including all redeployees**. Redeployees at this stage will not be guaranteed an interview. The Council's Standard recruitment procedures will apply.

##### **STAGE 3:**

If there is no internal interest in a new or vacant post, or no suitable applicant can be found, the post will be **advertised externally**, and filled following the Council's standard recruitment process.

## **II. Trial Periods**

Redeployees successfully placed in other posts will be given the opportunity to undertake the role on a trial basis. Reviews will take place on a weekly basis with a formal review taking place at the end of the 3rd week of the trial period. During this time support, including training will be given as required. At the end of the trial period a decision will be taken as to whether or not the outcome is mutually satisfactory and the job offer confirmed. If during the trial period it is agreed by the employee and employer that the role is not a good fit and there are no other alternatives the employee will be dismissed from employment for reasons of redundancy and entitled to the appropriate redundancy payment.

## **III. Duration**

Every effort will be made to find suitable alternative employment for those on the Redeployment Database. Employees will remain on the Redeployment Database until the end of their notice period or until they have been resettled.

## **IV. Pay Protection**

The emphasis will be on placing redeployees in a "priority consideration" job at their current grade, avoiding the need for salary protection.

If a redeployee is required to accept a post at a lower grade, the redeployee will be entitled to salary protection for one year from the date of commencement in the new job. Thereafter the salary appropriate to the grade of the new job will be paid.

Pay protection relates to 'normal pay' based on what the employee was earning contractually immediately before the date the pay protection started. This includes consideration of the whole pay package, including enhancements and allowances where earned as part of the normal working rota. It does not include overtime payments which are not contractual.

Annual pay awards will not be applied to the employee's protected earnings whilst they are receiving pay protection. The employee's pay is effectively "frozen" for the year of protection.

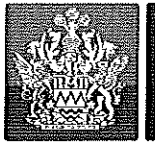
Pay protection will be applied unless or until the pay of the new post/grade increases so that it has caught up with or overtaken the original pay level, at which point pay protection will cease.

Redeployees who are successful with their application for a higher graded 'open competition' post will be appointed in accordance with the Council's standard recruitment and selection procedures.

## 5 Potential Redundancy

If the redeployment process fails to find a suitable post for a redeployee, the employee will be dismissed for reasons of redundancy at the end of their contractual notice period.

The operation of the Redeployment Process, following a declaration of potential redundancy, does not preclude the redeployee from requesting and being granted reasonable time off to seek employment outside the Council if he or she so wishes.



# **Redundancy Policy and Procedures Human Resources**

## 1. Introduction

The Council recognises that it must adapt to change and that this process will affect the make-up and size of its workforce from time to time. Changes in the way services are provided will sometimes lead to individual jobs or groups of jobs changing or no longer being required. The purpose of this procedure is to set out the principles and procedures to apply where reductions in staffing levels, including compulsory redundancies, are required. Where this occurs, the Council is committed, wherever possible, through effective retraining and redeployment of staff to avoid compulsory redundancy.

Redundancy is defined by the Employment Rights Act 1996 as a dismissal attributable wholly or mainly to the fact that:

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

In cases where the service transfers to another provider, employees are not necessarily redundant and would normally transfer to another employer on their existing terms and conditions, under the "TUPE" regulations (Transfer of Undertakings Protection of Employment). An exception to this approach would apply if a decision had been taken for the Council to no longer offer a particular service and it was not statutorily bound to do so. In these cases a redundancy situation would occur.

## 2. Scope

The guidance and change principles set out in this policy apply to all employees of the Council whose terms and conditions of employment are governed by the National Agreement on Pay & Conditions of Service of the National Joint Council for Local Government Services (The "Green Book"). The broad principles of the policy also apply to Chief Officers, subject to the particular procedures set out in the relevant National Agreement (The "Blue Book").

## 3. Responsibilities within the process

It is the Council's responsibility to ensure that:

- The redundancy policy is available to all employees.
- The policy is applied fairly and consistently.
- The employee's rights are respected and adhered to throughout all stages of the procedure.
- Consultation takes place with employees and appropriate recognised Trades Unions about any potential redundancy.
- Selection for redundancy is carried out in such a way that it does not discriminate, either directly or indirectly, on any grounds.
- Any employee who is declared redundant is placed on the Re-deployment Database.
- Suitable alternative employment opportunities are offered where possible

- Employees are given access to support mechanisms through the Human Resources service.
- All employment legislation requirements are followed

**Employees will be expected:**

- To fully understand the business reason and need for change
- To contribute in the consultation process offering potential suggestions as alternatives to redundancy
- To be aware of and understand the Redundancy Policy
- To co-operate in the application of the policy
- To be aware of and take advantage of any training and development opportunities to improve personal employability
- To co-operate in the process to identify potentially suitable alternative employment
- To be aware of and take advantage of any personal career support programmes and advice offered during the implementation of the redundancy policy

#### **4. AVOIDING OR MINIMISING REDUNDANCY**

The Council will take all reasonable steps to avoid or minimise redundancies. Wherever practicable, these measures may include:

- Achieving staffing reductions through natural wastage.
- Restricting the use of agency services, casual staff, external consultants, where existing Council employees would normally undertake this work.
- Reducing Overtime.
- Terminating the employment of staff on temporary contracts.
- Introducing short-time working (where contractually permitted and following consultation processes).
- Seeking, where appropriate and in accordance with business need, applicants for voluntary redundancy or early retirement.
- Re-training staff where employment opportunities with the Council are foreseen.

#### **5. PROCEDURE FOR DEALING WITH A REDUNDANCY SITUATION**

##### **5.1 CONSULTATION**

The purpose of consultation is to provide as early an opportunity as practicable for all concerned to share the problem, explore the options, and reach agreement with appropriate representatives. In most cases this will occur at the time of a restructure. Employees and relevant trade unions will be made aware of the proposals for organisational change, and the reasons, at the earliest opportunity. Consultation should include ways of avoiding the dismissals, reducing the number of employees to be dismissed and mitigating the effects of dismissals. It should never run concurrently with any notice period but may run concurrently with restructure consultation.



There are minimum statutory timescales that indicate when formal consultation should begin. Consultation must be meaningful and should allow for further consideration of any counter-proposals and alternatives to redundancy.

<b>Number of employees affected</b>	<b>Consultation period</b>
Less than 20 possible redundancies within a 90 day period	30 day consultation prior to any redundancy notice being issued
20-99 possible redundancies within a 90 day period	30 days statutory consultation period [including notification to the Department of Business, Innovation and Skills (BIS) ]
100+ possible redundancies within a 90 day period	90 days statutory consultation period (including notification to BIS)

The Council will consult with recognised Trades Unions over any proposed redundancies. The Council will also communicate with all employees who may be affected (directly or indirectly) by the proposed dismissals for reasons of redundancy or by any measures taken in connection with those dismissals. Collective consultation will be carried out and the Council will also provide the opportunity for individuals who are at risk of potential redundancy to be consulted individually.

## **5.2 NOTIFICATION TO EMPLOYEES**

As soon as it is confirmed that an employee may be 'at risk' of possible redundancy, a meeting will be arranged for them and their representative, if requested by the employee, to discuss the situation. The meeting will include their manager and, where possible, an HR Adviser. During this meeting the employee will be provided with information about the reasons for the 'at risk' status and the options available to them during the forthcoming period.

All staff will be informed of the proposed changes in writing stating:

- the reasons for the proposals
- that whilst no final decision has been made, redundancy is a possibility
- access and rights to alternative employment opportunities
- what selection criteria will be applied if appropriate
- their right to representation
- the appeals process

During consultation comments will be invited from employees/their representatives on:

- the need to make redundancies
- ways of avoiding dismissals
- ways of reducing the number of staff to be made redundant – e.g. reducing hours, flexible working initiatives including unpaid leave
- the selection process, including selection criteria
- ways of mitigating the effects of redundancy
- any opportunities for redeployment
- facilities for seeking other work

Any staff affected directly or indirectly by a potential redundancy situation during maternity, paternity or adoption leave will be consulted and kept informed. An employee on maternity or adoption leave who is under notice of dismissal on the grounds of redundancy will be placed on the Redeployment database and offered any suitable alternative vacancy available in preference to other employees. Redundancy during maternity or adoption leave will end the contractual obligations to both occupational maternity and adoption pay and the right to return. Statutory Maternity Pay and Statutory Adoption Pay payments are not affected and will continue until the end of the Maternity or Adoption Pay Period, or until the employee starts work for a new employer.

Where the reason for the potential redundancies is subject to final approval by elected members, all comments from the consultation with employees and Trades Unions will be summarised and forwarded as part of the report to members. Chief Officers will be informed that they are entitled to make personal representation to the Committee or elected member(s) where delegation has been given prior to the final approval of any proposals which directly affect them, as required by their National Agreement.

### **5.3 NOTIFICATION TO THE TRADES UNIONS**

The Chief Executive or his representative will initially notify the Trades Unions of the need to make potential redundancies by email. Formal written notification of the need to do so will follow from the Human Resources Manager and, if appropriate, in accordance with s.188 of the Trade Union and Labour Relations (Consolidation) Act 1992. This will happen regardless of the number of potential redundancies to be made and will, in general, directly follow notification to the affected employees. Formal consultation will begin when a letter is sent to appropriate representatives, disclosing in writing:

- the reason for the proposals
- the numbers and descriptions of employees whom it is proposed to dismiss as redundant
- the total number of employees of that description employed at the establishment
- the proposed method of selecting employees for redundancy
- the proposed method of carrying out the dismissals including the period over which the dismissals are to take effect and
- the proposed method of calculating the amount of any redundancy payments

### **5.4 NOTIFICATION TO THE DEPARTMENT OF BUSINESS, INNOVATION AND SKILLS**

In addition to consulting the Trades Unions, it is necessary to notify the Secretary of State at the Department of Business, Innovation and Skills on form HR1 of proposed redundancies involving twenty or more employees at any one establishment in a 90-day period. At least 90 days notice must be given before the first dismissal if 100 or more employees are to be made redundant, and at least 30 days for 20 to 99 employees before the first dismissal takes place. In any event the HR1 must be issued in accordance with the relevant numbers of redundancies, before any notices of redundancy are issued. The Human Resources Manager (or his/her representative) will normally undertake this notification.

## **6. REDUNDANCY SELECTION**

The criteria used in selecting employees for redundancy will depend on the existing circumstances and the particular needs of the organisation at that time. However, every effort will be made to ensure a fair and robust set of criteria are developed and agreed following appropriate consultation.

Where the potential redundancy applies to a job with only one job holder or a job with multiple job holders where all jobs will potentially be redundant, the job or jobs will be redundant without the need for selection. Jobs that have only one jobholder are often classified as 'unique' jobs.

Where there are potential multiple redundancies or a reduction in posts within a group of employees, the 'pool' of employees from which the redundancies will be drawn will be identified. This might be one team within a Service, a group of employees doing the same job, usually working to the same job profile, or in some situations those performing a particular function across a number of service units.

In 'pooled' situations, those directly affected will be 'ringfenced' for remaining posts and selection will be based on a competitive competency based interview against the agreed redundancy selection criteria. Where appropriate, each individual affected will be invited to complete a self assessment against the redundancy selection criteria giving an opportunity to outline appropriate work based examples to support their self assessment.

A previously agreed set of redundancy selection criteria are attached at Appendix 1 of this policy. It should be noted however that changes to these criteria can be agreed to ensure they more closely align with the requirements of the posts at risk of redundancy. In accordance with the Equality Act 2010 consideration will also be given to making reasonable adjustments to the redundancy selection criteria to ensure that any affected disabled employees are not at any substantial disadvantage in their application.

Decisions around the classification of potentially redundant jobs, whether or not they are 'unique' or 'pooled' roles will be discussed with the recognised Trade Unions as early as possible in the overall process.

## **7. VOLUNTARY REDUNDANCY**

The opportunity to apply for voluntary redundancy will not be offered as a general principle but will be considered on a case by case basis. It may be that in some situations, for example where there is only one 'unique' jobholder or in situations where one or more jobs are being removed from jobs that have multiple jobholders, more appropriate to invite expressions of interest in voluntary redundancy.

Redundancy compensation in a voluntary situation will be exactly the same as that applying to compulsory redundancies.

The organisation reserves the right at its absolute discretion to decline request for voluntary redundancy on business grounds.

## 8. FORMAL NOTIFICATION OF REDUNDANCY

At the end of the consultation period, and where necessary after any final approval by elected members, employees who are still at risk of redundancy will be informed at a meeting that they will be issued with their notice of redundancy, the period of notice to which they are entitled, details of any redundancy payment together with the timescales for doing this and their right to appeal. Employees should also be informed of what support facilities may be available. This will be confirmed in writing and issued to the employee, usually at the conclusion of the above meeting.

## 9. APPEALS PROCESS

In the case of an employee being given notice of compulsory redundancy, they may exercise the right of appeal against this.

To exercise the right of appeal, the employee must notify the Human Resources Manager in writing, **within 5 days of notification of compulsory redundancy, stating the grounds of appeal.**

When lodging an appeal, the employee should state the grounds and brief reasons for their appeal. The grounds of appeal will normally be based on one or more of the following:

- The job is not redundant
- The selection process has been unfair
- The policy and procedures have not been followed correctly

Appeal Hearings will take place as soon as reasonably possible upon receipt of the employee's written notice of appeal and will, wherever possible, be concluded prior to the employee's termination date.

The employee will be given at least five clear working days written notice of the date, time and location of the appeal hearing and of his/her right to be accompanied by a Trade Union or fellow work colleague. **N.B. it is the employee's responsibility to obtain representation, and to inform the representative of the situation.**

The Appeal Hearing will be conducted by a Manager from a Service other than that of the appellant, and will be accompanied by a member of the HR team. The prime role of the HR representative will be to act as management advisor, ask questions as appropriate, contribute specialist knowledge of procedural issues, relevant policies and employment law matters, and to ensure that notes of the meeting are taken. They will participate fully in the hearing and any discussions about the case, but the decision will only be made by the Appeal Hearing manager.

The procedure to be followed at an appeal will be as follows:

- The employee who is appealing will be invited to present his/her case for appeal.
- An appropriate manager from the employee's Service Unit will present the background and reasons for the proposed redundancy

- The Appeal Hearing Manager will ask any questions he/she has.
- The meeting will be adjourned to allow the Appeal Hearing Manager to review the evidence in private.
- Following the adjournment, it is expected that the Appeal Hearing Manager will orally confirm or cancel the compulsory redundancy with the appellant and their representative.
- In some circumstances however it may be necessary to delay the decision whilst further investigations are completed. In these situations, the appeal hearing will be reconvened and a decision confirmed orally at the conclusion of this hearing.
- All decisions will be confirmed in writing within 7 days of the appeal hearing.
- The Appeal Hearing Manager's decision is final. No further right of appeal exists within Copeland Borough Council.
- Where an appeal against dismissal on the grounds of redundancy fails, the effective date of termination of employment will remain as the date on which the notice was served for.

#### **10. SUITABLE ALTERNATIVE EMPLOYMENT**

Throughout the consultation process and during the period of notice, the Council will attempt to identify and offer suitable alternative employment within the Council to any employee whose job has been confirmed as redundant. Suitable alternative employment is where a new job is comparable in duties, status and grade to the existing post. If there is a significant difference to the previous position, it probably does not constitute a suitable alternative job. While priority will be given wherever possible to employees under threat of redundancy, the Council reserves the right to select the best available candidate in relation to any given vacancy.

Where a suitable alternative job offer is made, it will be offered as soon as possible before the end of the notice period. If an employee refuses an offer of suitable alternative work, they must inform the Council within 5 working days of the offer. If the refusal is considered to be unreasonable in terms of duties, status and grade, it will be deemed that they have terminated their own employment and the individual will not be entitled to a redundancy payment.

If a redundant employee expresses an interest and is subsequently offered and accepts a less well paid position, a salary protection period of one year will be applied from the date of appointment.

#### **11. TRIAL PERIOD**

Where the Council or the employee is uncertain as to the suitability of an alternative post, a trial period can be implemented which gives both the employee and manager a chance to decide whether the new job is suitable. The trial period is for 4 weeks but can be extended by agreement for the purposes of retraining only. In this case, the agreement must be in writing and be made before the start of the new contract, set out the date on which the trial will end and set out the terms and conditions that will apply to the employee at the end of the period. If any employee

continues working beyond the end of the trial period without agreement to extend, they will lose the right to redundancy pay, as they are deemed to have accepted the new job.

If the Council decides the trial has been unsuccessful, the employee will retain their right to redundancy pay. If the employee decides the suitable alternative employment is not suitable, they will retain their right to redundancy pay unless they are unreasonable in their refusal of the suitable alternative employment.

Where a trial is unsuccessful, any remaining notice period will be honoured during which time other suitable jobs may arise and a new trial period would apply.

## **12. TIME OFF TO LOOK FOR ALTERNATIVE EMPLOYMENT**

Employees under notice of redundancy will be granted reasonable paid time off during working hours to look for new employment or to make arrangements for training. To ensure this is consistently applied:

- the relevant manager should agree time off in advance
- at least 24 hours notice should be given
- a letter confirming the appointment or training should, as far as possible, be provided to support the request for time off
- HR advice to be taken where necessary

## **13. REDUNDANCY COMPENSATION**

The Employment Rights Act 1996 provides that an employee must have more than two years' continuous service with the same employer, or a previous eligible employer, in order to qualify for a redundancy payment.

### **Redundancy Payment**

The following principles apply in the calculation of redundancy payments:

- Redundancy payment is based on an employee's weekly wage and not on the statutory maximum weekly earnings figure
- The number of weeks pay is calculated by reference to the statutory redundancy payment table (See Appendix 2 of this policy).
- Where an employee is paid on a variable wage/salary, one week's pay is calculated as the average pay over the 13 week period before the date of termination.
- In appropriate cases, payment is made of immediate pension benefits to employees aged 55 and over with a minimum of 2 years service, in accordance with the rules of the Local Government Pension Scheme.

## **Pension Benefits**

The position in relation to access to pension benefits in circumstances of redundancy is governed by the regulations of the Local Government Pension Scheme, which mean that, for an employee made redundant who is aged 55 or over, pension benefits are payable immediately without reduction. In such cases, the Council is required to pay any costs arising from "strain on the pension fund" caused by the employee's early retirement. The Council also has discretionary powers in such circumstances in relation to "augmentation" of pension benefits.

## **Augmentation**

Under the LGPS Regulations 1997 as amended, the Council has discretion to increase the total pensionable service of any Scheme member (augmentation). The potential costs of any such action will be a key factor in the decision making process.

## **14. COUNTER-NOTICE**

If an employee, under notice of redundancy, receives an offer of work outside the Local Government Service, they can either work their notice with the Council and receive their redundancy payment, or if they wish to start prior to the end of the notice period, resign from their post (counter-notice). **In this case they will forgo the remainder of their notice pay but will be entitled to their redundancy pay calculated to the date they leave their employment.**

## **15. TERMINATION OF EMPLOYMENT**

As a general principle employees will leave the Council's employment at the end of their notice period. In certain circumstances however, the Council may waive its right to insist on employees working their notice and instead give a payment in lieu of notice which will be paid along with the employee's final salary payment and subject to standard PAYE rules.

## **16. RECORD KEEPING**

The keeping of accurate records, be it of a formal or informal nature, is crucial during any management of change process. HR will set up an individual personal file for each affected employee during a period of change. It will be the responsibility of all involved to ensure that detailed and appropriate records are kept up to date. This will include details of any conversations and any email correspondence. At the end of the process HR will be transfer the package of records into the individual's HR personal file. Accurate records are of high importance in any case where the fairness of a dismissal is challenged.

## REDUNDANCY SELECTION CRITERIA

### Appendix 1

This document describes the selection criteria and scoring process to be used when assessing multiple postholders in jobs where potential redundancies have been identified. When scoring each employee against the criteria it is imperative that examples of objective evidence are given to support the score.

	Criteria	Level	Description
1	Attendance (Sickness, unpaid leave or unauthorised absence without prior arrangement)	5 4 3 2 1	No unauthorised absences over 12 months No unauthorised absences over 6 months Employee discharges their standard hours consistently 1 lapse in 3 months 1 or more lapses a month on average
2	Disciplinary Record	5 4 3 2 1	Has no disciplinary record Has received informal counselling in the last 6 months Has a current verbal warning Has a current written warning Has a current final written warning
3	Skills/Performance	5 4 3 2 1	Ability to carry out their own role and has developed their own role or area/regularly exceeds performance expectations and uses own initiative Offers assistance to others and makes improvements to role and/or area/good and consistent performance and occasionally uses own initiative Carries out duties without additional assistance/consistently discharges role and duties Requires assistance weekly/fails to fulfil role and duties occasionally Requires assistance/regularly fails to fulfil their role and duties
4	Adaptability /Flexibility	5 4 3 2 1	Has carried out several roles in different areas of the Council and accepts new challenges readily. Willingness to work beyond role and readily accepts non-routine matters and occurrences. Has extended role and regularly accepts new challenges where possible. Deals with and adapts to non-routine matters and occurrences. Has extended role and sometimes will accept new challenges and non-routine tasks Has not extended role and seldom accepts new challenges and non-routine tasks. Will not work beyond minimum role and has refused opportunities to expand role. Will not accept non-routine tasks/unusual occurrences



5	Computer Literacy	5 4 3 2 1	<p>Is fully IT competent and supports others in its use</p> <p>Shows a keen interest in IT and has taken steps to improve own IT capability</p> <p>Meets the IT requirements of the role</p> <p>Requires regular help with IT</p> <p>Is uncomfortable using IT and avoids it where possible</p>
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1. "Last In First Out" (LIFO) will be considered in tie-breaker situations
2. Scoring can be agreed in advance of application to be weighted according to the priority demands of the role being assessed

**Appendix 2**

**Statutory Redundancy calc table to be inserted**

## Appendix 4

The policies and procedures listed below are available on the HR section of the Intranet. A hard copy can be requested from HR, ext 8509

- **Consultation Procedure**
- **Early Retirement Policy**
- **Retirement Policy**
- **Recruitment and Selection Policy Practices and Procedures (includes Job Evaluation)**
- **Counselling**