

REPORT TO THE MEETING OF THE EXECUTIVE 18 FEBRUARY 2009

PORTFOLIO: OVERALL STRATEGY & POLICY DIRECTION

REPORT FROM THE CHIEF EXECUTIVE

SUBJECT: MANAGING RESTRUCTURE, REORGANISATION AND REDEPLOYMENT IN ROCHFORD DISTRICT COUNCIL

1 DECISION BEING RECOMMENDED

- 1.1 To adopt the revised management policy around restructures and reorganisations, as outlined in Appendix 1, and redeployment, as outlined in Appendix 2.

2 REASONS FOR RECOMMENDATION

- 2.1 Change is a regular feature of the District Council's working environment and within that context it is important that the authority has a robust, consistent and transparent approach to handling any restructure, reorganisation, and redeployment which is required.
- 2.2 Consequently, the Council's current practices and procedures have been reviewed and examined in the light of best practice and considered against the continually growing body of employment legislation. The opportunity has also been taken to amend the current practices and procedures in the light of the changes to the Council's decision making structure. The recent changes agreed to the Environmental Services Division have proved an ideal means for testing the emerging practices and procedures, which are now contained in Appendices 1 and 2 and placed before the Executive for agreement.

3 ALTERNATIVE OPTIONS CONSIDERED

- 3.1 Not to update the practices and procedures operated by the Council, which could leave the Authority at risk through not reflecting best practice and the growing body of employment legislation.

4 RISK IMPLICATIONS

- 4.1 It is important particularly at this time of increasing change that the Council has in place practices and procedures which reflect best practice and employment legislation and which are recognised by the Trade Union as appropriate. Otherwise the Council is at risk reputationally, legally and in terms of employment relations.
- 4.2 The consistent and transparent approach proposed in the appendices should minimise any risk to the Council in these areas.

5 RESOURCE IMPLICATIONS

- 5.1 There is no cost associated with the policies contained in the appendices as such, other than the amount of officer time involved in preparation. It is timely that such policies are now produced and agreed, for the absence of up to date policies in these areas could prove costly to the Authority over time.

I confirm that the above recommendation does not depart from Council policy and that appropriate consideration has been given to any budgetary and legal implications.

SMT Lead Officer Signature: _____

Chief Executive

Background Papers:-

None

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Managing Restructures and Reorganisations at Rochford District Council – February 2009

Introduction

Recognising that change is a regular feature of current working environments it is necessary to ensure that the council has a robust procedure in place to ensure that restructures are managed within a consistent and transparent framework

The Council will:

- ❑ Implement measures aimed at avoiding redundancy wherever possible.
- ❑ Ensure that meaningful consultation and communication takes place with employees and trade union representatives, in accordance with statutory requirements and good employee relations practices.
- ❑ Ensure that employees whose jobs are directly affected with the changes, or have been identified as having 'at risk' status have the opportunity to be considered for suitable alternative employment.
- ❑ Ensure that all steps taken are in line with current relevant legislation (A list of relevant legislation which has been taken into account is attached).

Background

The need for a restructure or reorganisation might happen due to any of the following:

- ❑ Business process re-engineering
- ❑ New legislation requiring changes to current practice
- ❑ Procurement of new contracts or new partners
- ❑ Changes to contract or partnership arrangements
- ❑ Changes to the services we provide
- ❑ Continued improvements in terms of efficiency and effectiveness of service provision

Process

The Head of Service will present the business case for re-organisation to their Corporate Director. Once a final option has been agreed a formal report will be presented to the Chief Executive, the appropriate Executive member, or Executive for approval. This will relate to the principle of the change being outlined.

Much will depend on the levels of change involved, i.e. major or minor change, and whether the changes require an increase in core budgetary provision.

Major change might involve any or all of the following:

- ❑ Whole Service or Council wide change
- ❑ Core budget issues
- ❑ Changes to service provision

Minor change might include a reorganisation of workloads, a movement of one or a limited number of staff from one service to another, team reorganisations.

There will clearly be situations in-between depending on the nature and scale of the changes envisaged.

When approval to the principle has been received to the proposal outlined the Head of Service will work closely with Human Resources to shape the requirements and develop an appropriate action plan, with clear timescales for implementation of the changes. The practical mechanics of the process will be overseen by Staffing and Resources Management Team

The action plan will include timescales for both the consultation phase with those staff directly affected and for working through the outcomes.

Staff will receive feedback following the consultation phase and depending on feedback received on the original restructure option it might be necessary to amend the proposals, which were the subject of consultation. Once finalised the Head of Service will present his/her final proposal to the Chief Executive and Corporate Directors/Executive Member or Executive as a whole for final approval and implementation.

A number of outcomes might arise as a result of the proposed restructure or reorganisation:

- ❑ A streamlining of processes requiring a smaller number of employees undertaking the work, requiring a competitive 'ring-fenced' recruitment process to the newly available roles
- ❑ Different ways of working, or additional work requiring additional training or different skills and competencies
- ❑ Complete cessation of activities or roles, resulting in redundancy situations
- ❑ New roles being created, providing new opportunities for firstly internal staff and possibly requiring an external recruitment process.

These outcomes will involve changes to the personnel structure within teams and Human Resources will work closely with Heads of Service to communicate and roll out the changes within an agreed timescale.

Working through Outcomes

Redundancy

Definition

Redundancy is one of the legally admissible reasons for dismissing employees. The Employment Rights Act 1996 sets out the definition of redundancy:

Redundancy occurs when the dismissal is wholly or mainly attributable to either of the following

- a) The fact that the employer has ceased, or intends to cease, to carry on the business for the purpose 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
- b) The fact that 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

Approval

Any potential posts which become redundant will be identified as part of the final restructuring/reorganisation proposals agreed.

Consultation

The statutory consultation requirements that relate to potential redundancies are that employers must properly consult all affected employees through the recognised trade union representatives. This applies even where those vulnerable to redundancy are not union members. Consultation must begin as soon as redundancies are contemplated, and not when there is a final decision to implement redundancies. Thus, consultation will begin when an in principle decision is made to proceed with a possible proposal to restructure/re-organise.

The consultation process must be considered meaningful. This means that the process must enable Heads of Service to share relevant information with those both directly and indirectly affected by the review. It must also allow a period of time for comments and feedback to be received. The Head of Service must consider this feedback and give an appropriate response before final decisions about redundancies are taken.

The aim of the consultation is to find ways of avoiding redundancy or dismissal, or to find ways of reducing the number of dismissals and mitigating the effects of dismissals. Consultation should be genuine and must be undertaken with a view to reaching agreement with the employee's representatives.

Once provisional selections for redundancy have been made, the Head of Service will enter into individual consultation with each employee identified. Each employee will have the right to be informed of the basis of his or her selection and invited to put forward any representations. The Head of Service will consider fully any such representations before making a final decision on which posts are to be made redundant as part of any finalised proposal put forward for agreement.

Where the Council proposes collective redundancies (i.e. 20 or more at one establishment), the Head of Service responsible should ask the HRM to notify the Department of Trade and Industry using the form HR1 (available from their website - link) before issuing any notice to terminate. This must be filed before giving notice to terminate any contract of employment and, where 100 or more redundancies are proposed, at least 90 days before the first of the dismissals takes effect (i.e. notice is issued). Where between 20 and 99 redundancies are proposed, the form must be filed at least 30 days before the first of the dismissals takes effect.

The HRM will also notify the recognised Trade Unions in writing, providing information required under section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992.

Even where a reorganisation does not result in 20 or more employees being made redundant, full and effective consultation should still take place with the employees and their trade union representatives. Consultation should begin as soon as any potential reorganisation or restructure might result in redundancies and, wherever possible, in line with the 30-day period specified above.

The Head of Service will notify all employees, directly affected by the change, of the selection process for the posts in the new structure. It may be appropriate to ask for volunteers for selection for redundancy before starting the selection process. The Head of Service will notify employees of the process for expressing an interest in redundancy.

Where an employee volunteers for redundancy, this does not necessarily mean that the Council can allow them to go. The Head of Service must first consider the needs of the service and any redeployment options that are available.

The Head of Service will endeavour to avoid compulsory redundancy by:-

- the process of natural wastage
- reviewing recruitment strategies and/or deleting or limiting recruitment to vacant posts
- retirement of staff who are beyond the Council's normal retirement age
- reviewing the use of casual staff, contractors and agency workers

- reviewing the employment of staff on temporary contracts
- redeployment within the Council's services, in accordance with any agreed procedure, including where possible the provision of appropriate training.
- voluntary redundancy/premature retirement
- any other means the Council may consider appropriate in consultation with the Trade Union

All of the above will be subject to the overall responsibility of the Council to maintain a balanced and effective workforce and with full consultation with the recognised Trade Union.

Appeals against redundancy

An employee will have the right to appeal against the dismissal. This appeal may be on the basis that the employee's role should not be made redundant and/or the decision to select for redundancy. A Corporate Director who has not been involved in the original decision to dismiss will hear the appeal, unless the appeal relates to a member of the Senior Management Team whereby the appeal will be heard by the members of the Appeals Panel.

Agreed redundancy list

Employees who have not acquired a post in the new structure will become 'at risk' and notice of dismissal will usually be issued at this stage by the HR team. The Head of Service should offer employees advice and support on the Council's redeployment/redundancy provisions. Such support may include:

- ☐ support in applying for alternative employment
- ☐ training
- ☐ reasonable time off to attend interviews outside the Council.

Those who do are unsuccessful in applying for suitable alternative employment will serve their contractual notice period in the usual way.

Slotting

Recruitment to the new structure should follow this process

- ☐ The Head of Service should finalise the proposals, job profiles and person specifications in liaison with HR. The HR team may need to evaluate job profiles.
- ☐ Where a post in the new structure is fundamentally the same as the existing post, and where there is just one employee for the job, then the employee should be slotted in automatically, (assimilate them to the new post), without the need for an interview.
- ☐ For slotting to take place, the post has to be fundamentally the same. There is no laid down percentage for this, and it is a matter of judgement as to

whether the post is fundamentally the same taking account the range and scope of accountabilities and the context in which the post operates.

Identifying the ring fence:

- ❑ Where the Council creates a different structure with different jobs, or where there is a reduction in the number of jobs in the new structure, there will normally be a ring-fence and initially only those staff currently employed in the service affected can apply for identified posts.

Internal Selection procedure

- ❑ Appointments to posts in the new structure will be made on the basis of an assessment of skills and competencies through a selection process.
- ❑ Employees within the ring-fence should complete a shortened application form which managers will use during the recruitment process
- ❑ Interviews should be arranged as quickly as possible and to fit with the overall timetable for the restructure
- ❑ Ring-fenced staff not appointed through this process will be identified as being at risk of redundancy.

Recruitment Procedure

Those roles not filled by any of the above means will be subject to the Council's usual recruitment procedure, via completion of a staffing requirements form presented to SRMT.

Who this policy applies to

All permanent Rochford District Council employees, including new employees still subject to their 6 month probationary period.

Employees on temporary/fixed term contracts who have completed one year's service with the Council at the date of implementation of the new structure.

This policy does not apply to employees on temporary/fixed term contracts that have less than one year's service with the Council at the date of implementation of the new structure.

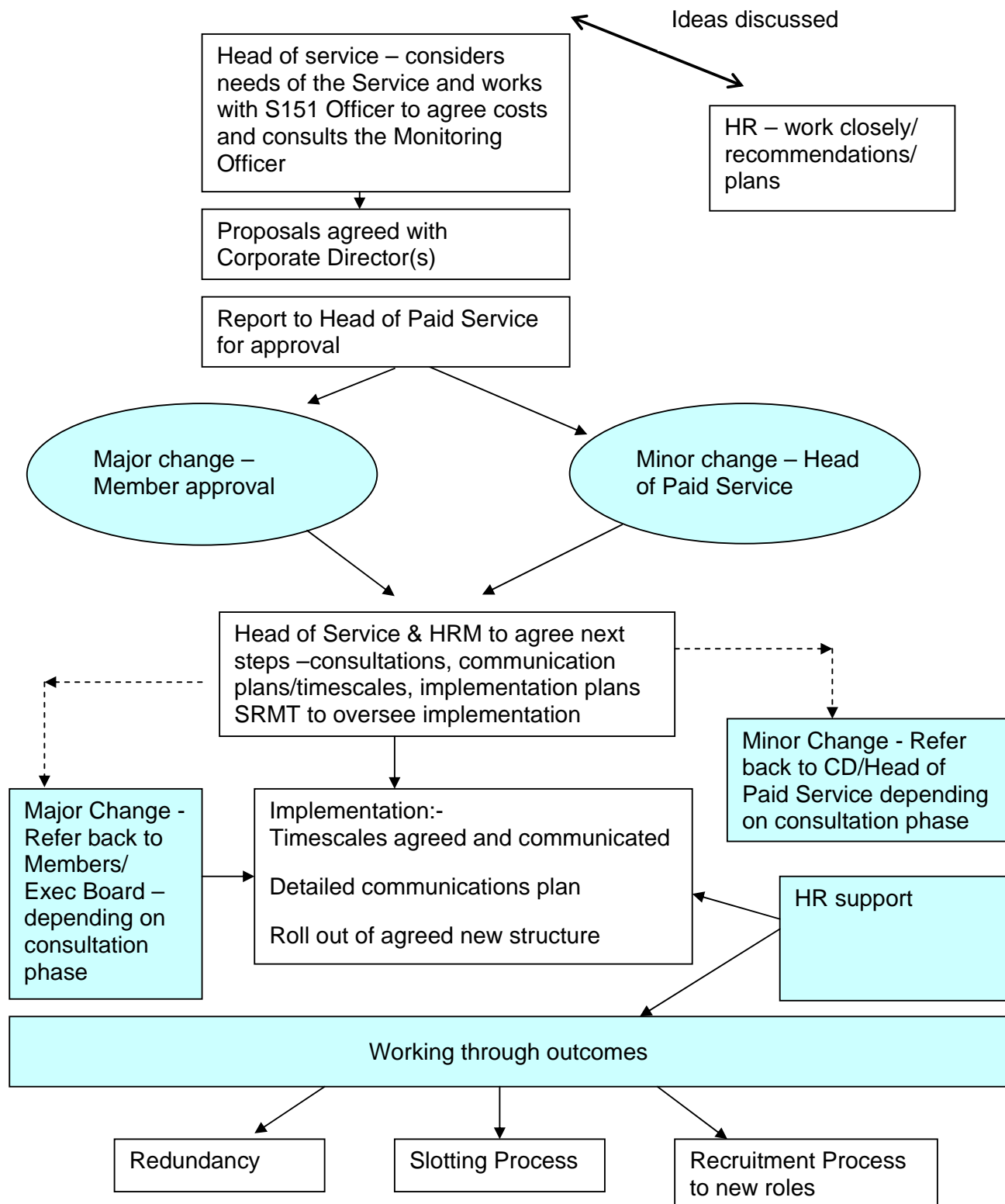
This policy does not apply to agency workers

Legislation which sets the framework for this policy

- The Trade Union and Labour Relations (Consolidation) Act 1992.
- The Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995
- Trade Union Reform and Employment Rights Act 1993.
- The Employment Rights Act 1996
- Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1999.
- The Collective Redundancies Directive 1998.
- The Collective Redundancies (Amendment) Regulations 2006.
- Employment Equality (Age) Regulations 2006

There are also several statutory instruments, which apply specifically to employees in the local government service and these govern redundancy payments.

Process Flowchart





Managing Redeployment at Rochford District Council – Feb 2009

Introduction

The Council aims to maintain long-term stable employment for its staff. It will constantly attempt to plan ahead in order that wherever possible natural turnover can be used to reduce staffing numbers when this is required. However, on occasions it may prove necessary to make the required adjustments to the staffing establishment by other means. In such circumstances the Council will seek to minimise the need for compulsory redundancies by redeploying suitable staff to alternative areas of work.

Where an employee becomes disabled during their employment every effort will be made to support the individual in their attempt to maintain their existing role. However, if this is not possible alternative areas of work will be considered in an attempt to accommodate their needs.

Implementation

This policy will apply where it is determined by Council that a permanently occupied post is no longer required or when the Council's requirement for employees to carry out work of a particular kind has or is expected to cease or significantly diminish, following a review or reorganisation of a directorate, division, section, activity or individual job, involving changes in the nature of the work, location or hours. It will also apply to individuals who have become disabled during their employment where their current role cannot be modified to suit their needs.

This policy does not apply to:

- disciplinary matters;
- employees who are unable to meet required performance standards
- incapacity due to ill-health;
- under-performance or incapability;
- ending of a temporary or fixed term contract of employment;
- temporary or minor amendments to job descriptions, service level agreements, etc.

Aims

- i. To take all reasonable steps to secure the successful redeployment of employees who have become disabled or are surplus to the Council's needs in their existing post, thereby protecting continuity of employment and reducing the need for incapability or redundancy dismissals.
- ii. To deal fairly and consistently in consultation with the individual employee and their trade union, where it is "recognised" by Rochford District Council, throughout any period of redeployment.
- iii. To provide support where employees are redeployed to a job on lower earnings, as a result of this policy, to help them adjust to this change during the initial period of redeployment.

Terms

1. Redeployment in a redundancy situation may only be offered between the relevant date and the expiry of any period of notice of dismissal for redundancy.
2. Only current council vacancies during the redeployment period will be examined to establish their suitability as redeployment opportunities prior to internal or external advert. Vacancies cannot be created to accommodate staff losing redundant posts or who have become disabled.
3. Employees in a redundancy situation who have not been successfully redeployed within the redeployment period will be dismissed under the terms of any redundancy agreement, legislation or regulations in force for local government employees, either locally or nationally, at the time of their departure.
4. Where redeployment is not achieved in a redundancy situation, notice of dismissal will be given to expire at the end of the redeployment period. However, if an employee is working a "trial period" in an alternative job the notice period will be extended until the end of the "trial".
5. Appeal as to the reasonableness of any redeployment decision will be to the Corporate Director.
6. Where scope for redeployment exists, but an alternative position is not offered to a disabled employee unable to continue in their current role or an employee under notice of redundancy, appointment to a vacant position will not be made until the employee's appeal has been heard.
7. Where employees are permanently redeployed to a job with a lower salary or earnings potential than the job previously occupied, they will have salary protection for a period of 3 years at their rate of pay for their current role prior to redeployment.

Such protection shall apply from the date of the new redeployment until the period of protection expires or the maximum salary of the new post over takes that of the previous post, the employee obtains promotion, or other Council employment as a result of voluntary application or is offered a suitable equivalent post at a salary commensurate with the protected salary.

8. In appropriate cases, where employees do not meet the essential requirements of a job, they may be considered for a period of pre-training to determine whether they achieve the requirements in full. This period will count as a trial period.

Alternatively, they may be redeployed if it is determined that they can meet the full requirements within a short period of time with appropriate training.

9. Employees subject to this scheme will be granted reasonable paid time off work to look for alternative employment during the redeployment period, subject to prior agreement with their Head of Service.

Procedure

Where it is evident that this policy is likely to be invoked the following steps will be implemented first where possible and appropriate:

- freeze on recruitment to posts which might represent redeployment opportunities for employees at risk;
- an examination of staff turnover/natural wastage in the organisation.
- reduction in the work undertaken by outside consultants or contractors;
- reduction or cessation of overtime working, other than contractual or emergency overtime.

When it becomes necessary to invoke the policy the following procedure will be adopted:

- Where a number of employees are subject to this policy, selection for jobs will be on the basis of appropriate skills, knowledge and experience
- Employees to be redeployed will be assessed to establish the type of jobs for which they are suited.
- The Human Resources unit will liaise with the line manager to match employees to suitable current and impending vacancies.
- Wherever possible “matching” will take place before vacancies are advertised and an interview will take place to discuss the employee’s suitability for the vacant post and whether an immediate transfer to the vacancy may be affected or whether a measure of appropriate re-training is required.
- Where redundancy occurs an employee who, during or at the end of a four week trial period in a new post, is dissatisfied with the job into which they have been redeployed, may claim redundancy subject to their refusal being

reasonable in the circumstances and the time limits and number of offers made. Similarly, if the "receiving" department does not feel the employee is able to meet the requirements of the job, the employee will be made redundant subject to the time limits. A maximum number of two trial periods will be offered.

- Where the job under consideration is at a higher grading or pay level, the employee will be required to apply for it in the usual way i.e. in competition with other applicants, and will be given an interview only if they meet the attributes detailed in the personal specification.