

Redundancy & Redeployment Procedure

DECEMBER 2012



INVESTOR IN PEOPLE

1. Purpose

With an increasingly changing work environment it is inevitable that changes will occur from time to time which will have staffing implications. However, when reorganisation or other circumstances compel any reduction in staff numbers, or significant changes to the way work is organised, a prime policy objective of the Council will be to avoid compulsory redundancies.

This document sets out the range of measures that will be taken with the object of protecting employment, within a fair and lawful framework. It also provides guidance where redundancies are unavoidable.

2. Scope

All employees of Epping Forest District Council (EFDC) are covered by this policy with the exception of the Chief Executive (Head of Paid Services), Deputy Chief Executive and Directors, also the Monitoring Officer, Deputy Monitoring Officer and Chief Finance Officer where they are not designated Chief Officers, for whom separate arrangements apply. However, the principles of this Policy will apply.

3. Definition of Redundancy

3.1 An employee may be dismissed on grounds of redundancy if:

3.1.1 The Council has ceased, or intends to cease:

- i) to carry on the work for the purposes of which the employee was employed;
or
- ii) to carry on the work in the place where the employee was so employed; or

3.1.2 The requirements of the Council for employees:

- i) to carry out work of a particular kind; or
- ii) to carry out work of a particular kind in the place where the employee was employed

have ceased or diminished, or are expected to cease or diminish.

'Cease' means cease either permanently or temporarily, and 'diminish' means to reduce, either permanently or temporarily.

Potential redundancy situations must be discussed with Human Resources at the earliest opportunity.

4. Notification of Potential Redundancies to the Department for Business, Innovation and Skills

Legislation requires that 90 days written notification must be given to the Department for Business, Innovation and Skills if 100 employees or more are to be made redundant and 30 days for 20-99 employees. For less than 20 employees no notification is required.

5. Consultation with the recognised Trade Unions in the Council

Legislation requires that if dismissals on grounds of redundancy are proposed, consultations with recognised trade unions must start at least 90 days before the date of dismissal for 100 or more employees and 30 days if 20-99 employees are to be made redundant.

In Epping Forest District Council, where reorganisation or other initiatives which might have staffing implications are contemplated the Council will formally notify the Branch Secretaries of the recognised trade unions within the timescales set out above.

Although there is no formal legal requirement for consultation with the recognised trade unions where there are less than 20 employees being made redundant, it is the policy of the Council to consult in all cases. The minimum period of consultation for redundancies of less than 20 staff is to be 30 days.

6. Nature of the consultation to take place

Legislation requires meaningful consultation to take place – it is not enough simply to inform. However consultation should not be confused with negotiation or bargaining.

The following points underpin the Council's approach to consultation;

- Consultation must always cover ways and means of avoiding redundancies, reducing their number, and mitigating their consequences
- Consultation must be undertaken with a view to reaching agreement, although actual agreement is not required
- Consultation must be undertaken with an open mind, before an irrevocable decision is taken and while proposals are still at a formative stage
- Sufficient information must be provided to allow those being consulted to properly understand the proposals and their reasons

6.1 Trade Union Consultation

In any redundancy situation, consultation with the trade unions will normally consist of:

- The reasons for the proposals and whether redundancies should occur
- the selection methods and criteria for redundancy
- how the selection criteria will be applied
- the date the dismissals are to take effect
- the number of staff affected and the areas affected
- how redundancy payments will be calculated.

The manager, with support from HR will put this information in writing to the trade unions.

6.2 Collective Consultation

In any redundancy situation, consultation with staff affected by the proposals will normally consist of:



- how staff have been identified as being at risk of redundancy
- the selection criteria to be used to identify individuals for redundancy
- employment and retraining opportunities available
- timescale for the redundancies to take effect
- compensation payments available.

Managers will invite the relevant Trade Union representatives to attend collective meetings.

6.3 Individual Consultation

For affected individuals who are not members of a recognised Trade Union, the Council will consult separately in accordance with the principles, aims and objectives referred to at 6.1 so far as this is not covered by consultation carried out as 6.2 above.

Further the Council will also consult with all affected individuals by offering employees the opportunity to discuss their own situation and raise any concerns with the relevant manager. At the meetings the employee can be accompanied by a representative of their choice.

Employees away from work e.g. on maternity leave or sick leave, must also be included in the consultation process. Mutually agreeable arrangements will be made to enable such consultation to take place.

For affected individuals who are not members of a recognised Trade Union the Council will consult specifically on;

- the reasons for the proposals and any ideas to avoid redundancies
- how they have been identified
- the selection criteria used
- employment and retraining opportunities
- timescales
- compensation payments available

7. Selection for Redundancy

Once the consultation has begun, the Council will consider ways of avoiding compulsory redundancies. This may begin with the Council seeking volunteers for redundancy, and/or the following measures may be used:

- Suspension of normal recruitment procedures within the service, directorate or Council as a whole
- Cutting overtime in any areas where this would provide employment opportunities for staff whose jobs are at risk
- Reorganisation of work where practicable e.g. job sharing, part time working.

The decision to issue a call for volunteers will be discussed with the trade unions before it is issued. Where a call for volunteers is issued, the Council will decide whether to accept applications for voluntary redundancy on a case-by-case basis. Management reserve the right not to accept applications from volunteers.

If it appears that compulsory redundancies may be necessary the Council will consider the selection of the pool of employees from which the redundancies may be drawn. The

principal factors that may be considered when deciding from which group of employees redundancies might be made may include the nature of the work that has diminished, whether any particular facility or unit has closed and the Council's future needs in terms of skills and experience of available staff.

The Council will then identify how many employees from the pool will need to be made redundant in light of the prevailing requirements for work of a particular kind.

Having identified how many employees from the pool need to be made redundant the Council will then select employees by applying selection criteria based on existing information and carrying out an assessment against the criteria using an appropriate scoring method.

Selection of employees may be made by taking into account one or more of the following criteria:-

- relevant skills and experience
- performance
- attendance (excluding reasons under the Equalities Act, reasons of maternity and paternity) and
- disciplinary record

This list is not exclusive or exhaustive and is only an indication of the main factors that may be taken into consideration when the Council finalises its proposed method of selection for redundancy. When considering whether to include any criteria care will be taken to ensure that their application would not lead to direct or indirect discrimination.

Once a provisional scoring has been made the employee will be given a copy of their scores and will have an opportunity to make any representations about the scoring given before a final score is arrived at. If attendance is to be used as a criteria this will provide an opportunity for an employee to bring to the attention of the decision makers any relevant information or reasons for any periods of absence that may have impacted adversely on the score given for attendance.

8. At Risk Employees or those Selected for Redundancy

Once a selection pool has been identified employees in that pool will be formally notified that they are at risk of redundancy.

Selection whether by application of selection criteria or assessment by interview will not take place until the end of the consultation period.

Once a decision has been made that redundancies will take place and the selection criteria applied, staff will be formally notified of the decision to dismiss them on grounds of redundancy, with their due contractual notice.

8.1 Appeal Rights

An employee who receives formal notice that they are redundant may appeal against this decision. The appeals procedure is set out at appendix 1.

8.2 Employment Opportunities for At Risk or Redundant Employees

8.2.1 Redeployment

A redeployment situation will occur to an employee who is on the Council's At Risk Register when the Council transfers them into a similar vacancy within the Council.

To decide if a redeployment is appropriate an assessment of current and future roles is undertaken by a Redeployment Panel. The similar role could be 1 grade higher or 1 grade lower than the employee's current grade. In most cases redeployment assessments will not take place until the employee has been given formal notice of redundancy.

The assessment will consider;

Job Content	the major elements of the job should be the same or similar to the existing job
Pay	similar terms and conditions that are equivalent to or very similar to those the employee currently earns
Status	new role should be of equivalent status taking into account a range of factors which may include reporting lines, numbers or direct reports.
Location	new role should be within reasonable travelling distance
Hours of work	any change in shift pattern, total number of hours or days worked must take into account an employee's personal circumstances e.g. caring responsibilities

If there are more at risk employees than vacancies then a 'recruit to stay' exercise may take place where employees are selected by means of a competitive interview and application process.

Employees who have been redeployed will be entitled to a 4 week trial period which can be extended by written agreement. (See section 8.6 for further details).

The Council will confirm an offer of redeployment in writing, before the end of the employee's notice period. The offer will state that the redeployment will start either immediately after the end of the notice period or after an interval of not more than four weeks.

If redeployed into a role at a lower grade the Council's Pay Protection Policy will apply.

Employees who unreasonably refuse an offer of redeployment will lose any entitlement to redundancy pay (See Section 9 for further details).

8.2.2 Redeployment Panel

A Redeployment Panel will consist of a member of HR, the manager of the current job, the manager of the new position. If it is the same manager for both posts then another manager from the (new) Directorate will join the Panel.

8.2.3 Redeployment Appeals

An employee may appeal against an assimilation decision using the procedure set out in appendix 1.

8.2.4 Alternative Employment

Additionally employees at risk will be entitled to view and apply for Council vacancies before they are advertised either internally or externally.

All the Council's vacancies will be circulated to employees on the At Risk Register on a weekly basis before they are externally advertised or advertised to EFDC staff. At risk employees will be given 5 days to request an application form from HR. If applying the employee will be given a further 7 days to return their completed application to HR.

When the Manager with the vacancy receives the completed application they will carry out a shortlisting exercise against the criteria in the person specification. In doing this, the emphasis should be on assessing the potential of the employee to meet the requirements of the post, with the provision of reasonable support and training if necessary.

An informal trial period can be arranged with the agreement of the manager and employee, however this is not a statutory right.

If an at risk employee is successful in obtaining a post at a lower grade than they are currently on, pay protection will not apply and they will be appointed on the full terms and conditions of the new role.

8.3 Timescales for the Alternative Employment and Redeployment Processes

These processes will be concluded by the end of the individual employee's notice period. If at this point no alternative employment or redeployment has been achieved the employee will be dismissed on the grounds of redundancy.

8.4 Responsibilities of Employees

In order for this process to work effectively, employees must:

- actively apply for any posts which they think may be suitable redeployment opportunities. This includes the completion of application forms with due care and diligence.
- inform Human Resources if they do not receive weekly details of Council vacancies, and notify an address to which these details should be sent.
- consider carefully their future career/job aspirations against their existing skills, abilities, experience and qualifications, and apply for posts which are suitable.

8.5 Responsibilities of Management

In order for this process to work effectively, managers must provide help and advice to their employees to help them think about suitable alternative employment and their current and future skills.

8.6 Trial Periods

If the employee is redeployed they are entitled to a statutory trial period. A statutory trial period only arises when the employee has been issued with a formal notice of redundancy. The trial period will be for 4 weeks and calculated on a calendar basis.

The effect of the trial period is to give the employee a chance to decide whether the new job is suitable without necessarily losing the right to a redundancy payment.

The trial period can be extended for the purposes of retraining only, but must be agreed in writing with the employee or their representative and must be made before the trial period begins. In this context 'retraining' means any job specific training which the employee needs to enable them to carry out the duties of the post.

If the employee accepts the post at the end of the trial period the right to a redundancy payment will end. If the Council does not consider the trial period to be successful, the employee can be made redundant at the end of the trial period. If the employee leaves the Council during the trial period a redundancy payment will not be made.

9. Compensation Payments for Staff Made Redundant

Employees will lose their entitlement to a redundancy payment where;

- they are dismissed for an act of misconduct or gross misconduct;
- they unreasonably refuse an offer of redeployment;
- they accept a role with the Council or another public authority within the Redundancy Payment Modification Order, to start up to or within 4 weeks of a dismissal. In circumstances where a redundancy payment has been made the Council will reclaim the money from the employee.

The Redeployment Panel will make the initial assessment as to whether an offer of redeployment is reasonable and made to the employee. The employee will have the opportunity to appeal against the Panel's decision which will be heard by a member of Management Board.

The Council has an agreed scheme of compensation for redundancy which is set out in the Severance Policy For Redundancy And/Or Early Retirement Policy.

Appeals Procedure

1. Scope

An appeal against selection for redundancy may be made on the grounds that include whether the notified selection criteria were not properly applied, whether there was such a defect in the procedure adopted that may mean that an employee should not have been selected or such other reason which affects the fairness of the decision to select for redundancy.

2. Process

An employee wishing to appeal must do so within five working days of receiving written notification of their selection for redundancy. The appeal must be lodged in writing to the Assistant Director - Human Resources, **informing them of their intention to appeal and that they will be submitting a full written statement within the next 5 working days.** The employee is encouraged to provide written representations in support of the appeal outlining the details of the grounds of appeal and referring to evidence in support of the appeal

Within 10 working days from receipt of the employee's written statement, management will provide a responding statement which will be presented to the hearing. In addition within these 10 working days the Assistant Director - Human Resources will make arrangements for a hearing to be convened before a member of Management Board.

All documents to be considered by the appeal hearing must be circulated to all parties at least 5 working days before the hearing.

3. The Hearing

3.1 The following parties will be present at the hearing;

- The Chairman (a member of Management Board)
- The Chairman's Human Resources Advisor
- The employee
- The employee's representative (if one has been nominated)
- The manager responding to the appeal
- The manager's Human Resources advisor (if one has been nominated)

The hearing will be conducted as follows;

- The Chairman will begin with opening remarks and introductions
- The employee will present their case, assisted by their representative if appropriate
- The manager may then ask questions by way of cross examination
- The Chairman and the Human resources advisor may question the employee (not their representative)
- The manager will then provide their response to the employee's case



- The employee or their representative may ask questions by way of cross examination
- The Chairman and the Human Resources adviser may then question the manager
- The manager may then sum up, but may not introduce any new evidence
- The employee may then sum up, but may not introduce any new evidence

Once the hearing has been complete the Chairman will then withdraw to consider the case, accompanied by the Human Resources adviser. The Chairman will make a decision after due consideration and will recall the hearing to do this. If the Chairman cannot reach a decision on the day of the hearing a written decision must be sent to all parties within 5 working days. In any case, a full written decision, with reasons must be given to all parties within this timescale.

Redundancy Appeals

If the employee does not agree with the decision of the hearing they are entitled to appeal to the member Staff Appeal Panel. Such appeals must be made within 5 working days of the decision to be appealed against. Upon receipt of such appeal the employee will be notified of the arrangements to be made for the hearing of this appeal.

Redeployment Appeals

The decision of the Appeals Panel is final and will conclude the redeployment process. For the avoidance of doubt there is no further internal right of appeal and the Panel will not enter into further discussion or correspondence about its findings.

PAY PROTECTION POLICY**Terms and conditions for staff who are redeployed and/or where their post has been re-evaluated:**

Where staff are redeployed in a post graded lower than their original one, or where a post is re-evaluated under the appropriate job evaluation scheme which results in that post being allocated a salary range lower than applied prior to the evaluation, their existing basic salary will be "protected" for a period as shown below. There will be entitlement to any annual percentage pay increases, but not to incremental progression. The protection will also apply to their annual leave entitlement.

Where the new post no longer carries a supplement that is not pensionable it will cease upon appointment to the new post. Similarly, where the new post is no longer designated an Essential Car User post, such designation will cease on appointment to the new post.

At the end of the period of protection the Spinal Column Point will be amended, where appropriate, to the maximum of the salary range of the new post. Where appropriate, annual leave entitlement will also be reduced at this time to that which is applicable to the new post.

Where the new post gives no entitlement to a leased car, any existing car lease will continue on a protected basis until the expiry of the existing car lease contract. It will not then be renewed.

If an employee who is protected succeeds in voluntarily obtaining a new post, the terms, conditions and salary of that new post will commence from the date of appointment.

Where there is a reduction in an employee's pensionable pay they can request that their final pensionable pay is calculated as an average of any three consecutive years ending 31st March within the ten-year period ending on the last day of membership.

Period of Agreement

This agreement will run for a period of five years from 1 November 2008 and will be reviewed before the expiry date.

Period of Protection offered to Staff

First 6 months at 75% of difference
Second 6 months at 50% of difference
Third 6 months at 25% of difference
At 18 months the new grade and terms are implemented



Application of Pay Protection

Pay protection will apply to employees who are redeployed for reasons of redundancy and ill health. It will also apply to employees whose post has been re-evaluated to a lower grade under the Council's job evaluation scheme.

Pay protection will not be offered to employees that are redeployed for reasons of disciplinary, capability or absence. It will also not apply to an employee if they are successful at obtaining alternative employment.