



Organisational Change Policy

Our commitment

- We will communicate change proposals effectively to all affected employees and their representatives.
- Consultation will take place on a collective and / or individual basis with any individual or affected group of employees and their representatives.
- Employee participation and involvement will be encouraged at all stages of the process.
- All HR processes will comply with relevant employment legislation and be underpinned by equality and diversity principles.
- A clear and transparent process will be followed to identify reasonable alternative opportunities within the Council.
- Reasonable steps will be taken to reduce, where possible, the need for compulsory redundancy.

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Version	Date	Description
1	23.11.02	New Policy and Guidance for Redundancy
2	30.01.03	Amendment to guidance
3	19.02.04	Amendment to guidance
4	12.08.08	Update of LGPS guidance and amendment to guidance
5	05.08.10	Amalgamating Redundancy, Redeployment and TUPE
5.1	04.07.13	Amendment to processes and update to consultation periods in line with legislation
6	May 2016	Moved to new format, amendment to trial period & redeployment pool process
7	Oct 2020	Clarity on salary protection, selection for new positions process and adjustments for employees on long-term sick, no consideration for alternative roles if agreed PILON
Document Approvals		
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Purpose

The organisational change policy sets out the main processes to be followed when it is necessary to modify the Council's organisational structure and workforce, due to:

- economic reasons;
- changes in the delivery of services;
- new technology;
- or new ways of working;

Scope

This policy applies to all employees including Chief Officers with the exception of those employed by schools where different arrangements may apply.

This policy is not intended to be contractually binding on the Council and may be revised by the Council following consultation with trade unions/employee representatives.

Roles and Responsibilities

The overall responsibility for the Organisational Change Policy within WBC rests with the Chief Executive. All managers are directly responsible for implementing this Policy and any related policies and procedures within their service areas, and for the adherence of their staff. A representative from Human Resources will be available to support a Manager through the change process.

Approval for change

When a need for change is identified, a business case should be completed and approval should be sought from the Director(s) whose service areas are affected by the change. No change should be communicated until this approval process is complete. Changes resulting in job losses of more than 20 people require approval of the Personnel Board.

All restructures require an Equality Impact Assessment to be produced as part of the approval process and the consultation.

Designing the change process

It is expected that all employees directly affected by proposed job losses as a result of the organisational change will be placed at risk of redundancy. The proposed selection process, including proposed assimilations, will be consulted upon during the formal consultation period.

The design of the selection process will be dependent upon the number and type of posts that have been identified 'at risk', and whether there are ring-fenced positions for the affected staff to consider. Selection will be based on one of 2 principles: selection for redundancy or selection for new positions, with the resulting unsuccessful applicants being at greater risk of redundancy.

If the decision is to select for new positions, a principles document that guides the approach to be undertaken is recommended, to enable consistency across all aspects including consultation, communication and selection.

Selection for Redundancy

This would most commonly be used if there is a requirement to reduce the number of posts within one specific skill set and team, with no new roles being created

Selection for new positions

This is normally used when there is a redesign of how we deliver services, with a reduction in some roles and the creation of new ones.

The selection process for new positions as part of a re-organisation will be designed on a case by case basis with the assistance of Human Resources, and be consulted upon as part of the formal consultation process. It will typically involve inviting interest of preference for ring-fenced roles, skills matching to those new positions and if necessary, an Assessment Centre/interview selection process.

Assimilation

If the employee is selected into a new position that is a close match to their previous position, they will be assimilated into that post. A close match will be defined as one with at least an 80% match with regard to duties, level of responsibility and accountability. A Job Matching tool has been developed to assist managers and HR in undertaking this assessment. Full records must be retained on the reasoning for specific scores as individual job matching scores and how they compare to others being matched to that role may be shared with the individual during the consultation period

Ring-fenced Recruitment

Depending upon the extent of the exercise, categories of post may be ring-fenced to certain 'at risk' groups, for example based on grade. This should be communicated to employees as part of the consultation exercise, fully described in the consultation document and should have been approved as part of the business case.

Voluntary change

In certain circumstances it may be appropriate to consider seeking expressions of interest from affected employees to a voluntary change in terms and conditions of employment or voluntary redundancy.

Employee Support Programme

An employee support programme should be arranged to provide practical steps towards career planning, whether that be internal or external, to support the employee to manage themselves through the change and prepare for applying for roles and attending selection interviews.

Consultation

Consultation Periods

- Where 100 or more employees are to be made redundant over a period of up to 90 days, consultation will begin at least 45 days before the first notice of dismissal due to redundancy is given
- Where between 20 to 99 employees are to be made redundant over a period of up to 90 days, consultation will begin at least 30 days before the first notice of dismissal due to redundancy is given
- Where less than 20 employees are to be made redundant the Council's consultation period will begin at least 30 days before the first notice of dismissal, whenever practicable

Collective Consultation

Where a change becomes necessary, consultation will take place both with Employee/TU reps and the affected employees at the earliest opportunity. This will be in the form of both written information and face to face meetings and include:

- the reasons for the proposed redundancies;
- the number and description of employees who are at risk of redundancy;
- the total number of employees of that description employed by the Council;
- the proposed selection criteria to be used;
- the proposed timescale;
- the compensation that will be applied

The consultations with Employee/TU Reps will include discussions about:

- alternatives to redundancy;
- mitigating against compulsory redundancies;
- reducing the number of redundancies;

'At Risk' Meeting

Shortly after consultation begins all employees who are directly affected will be invited to a meeting to discuss the re-organisation, and how this will affect them directly. At the meeting the employee will be advised if they are 'at risk' of redundancy. Where applicable, this will then be confirmed in writing and the individual consultation meeting arranged.

Employees on secondment (so away from the role in scope of the change), sabbatical, sick leave, maternity leave etc. must also be consulted, and so should be identified at an early point in the change process in case alternative approaches may be needed. Where an employee will be absent for a considerable period (e.g. due to long-term sickness on maternity) alternative approaches should be considered for undertaking the consultation e.g. consultation documents posted to them, meeting at their house with their prior agreement. For those on maternity please also see the section on 'Employees on Maternity Leave'.

Individual Consultation Meeting

This is attended by the manager, employee, and TU or employee representative or work colleague (if the employee wishes). The purpose of this meeting is to:

- ensure the employee fully understands the implications for themselves arising from the organisational change and new structure
- explain the selection and redeployment process
- identify any immediately known potential roles identified in the new structure against which individuals might be in scope for, taking into account any development needs
- explain the programme of support available
- discuss the completion of the Job Search Information Form and clarify any areas with the employee
- clarify how the employee can provide feedback regarding the proposals and timescale
- clarify selection process for ring-fenced recruitment (if applicable)
- explain voluntary options (if applicable)

End of Consultation

At the end of the Consultation period, consideration will be given to any comments and feedback with regard to:

- The proposed structure
- The proposed roles
- The proposed selection process
- Ideas with regard to mitigating the need to make compulsory redundancies

The outcome of these considerations will be communicated to those affected by the change, with revised agreed versions supplied as applicable.

At the end of the consultation period the selection process will commence based on the process explained and agreed as part of the consultation process.

Where an employee is off sick long term and otherwise should be participating in the selection exercise, reasonable adjustments to the selection process must be considered in order that they are not disadvantaged. The individual concerned (and their representative) should be involved in identifying the most suitable adjustments. Depending on individual circumstances, these could include:

- Individual coaching and support on the application/selection process, either at their home (with their prior agreement), or via Team Meetings.
- Job Matching process to assess suitability for new roles, potentially without subsequent interview depending on outcome
- Consider sharing interview questions in advance, and allowing a dictated or written response
- Job Matching assessments against higher and lower graded but potentially suitable roles for the absent employee, on the basis of exceptional circumstances

Where employees are unsuccessful for preferred roles during the selection process, then during the redundancy notice period, alternative suitable positions will be sought.

Employees on Maternity Leave

Consultation

It is automatically unfair to select a woman for redundancy on the grounds of her pregnancy.

However, where an employee on maternity leave has been selected for redundancy due to organisational change, she must be placed at risk of redundancy and be invited to participate in the consultation process at the same time as other employees being affected by the same change programme. The only time this may not occur is if the consultation period commences within 2 weeks of the employee giving birth. If this occurs then notification to the affected employee should be delayed until 2 weeks after the date of childbirth.

Selection

In line with regulations, someone on maternity leave takes precedence in the selection process over any other individual in the redeployment pool. When a suitable alternative post is agreed this then becomes the employees substantive post that they will return to upon their return from maternity leave, and the trial period would commence from this time, with redundancy rights protected until the end of the trial period.

Notice and Pay

If no suitable alternative position is found during the consultation period then the employee will be given notice of dismissal by reason of redundancy, although the job search will continue during the notice period. If still unsuccessful, the final salary will include:

- Statutory Maternity pay entitlement for the whole maternity period paid in a lump sum
- Occupational maternity pay (where applicable) due to the end of the notice period
- Redundancy pay, as defined below

Employees will not be required to payback any Occupational Maternity pay paid up to the date of termination.

Redeployment

Employees who secure alternative positions as part of the organisation change, whether as part of the restructure or through expressing interest in other roles within the Council, have specific entitlements:

Trial Period

The statutory trial period of 4 weeks, as set out in S. 138 of the Employment Rights Act 1996 and may be extended, by mutual agreement, where the role is significantly different. This is to protect their right to a redundancy payment should the trial period be unsuccessful.

The intention of the trial period is to provide both the employee and the new manager with the opportunity to assess the suitability of the role. If the manager decides that it isn't suitable then the employee will return to being 'at risk' or under notice of redundancy and the search for other alternative positions will continue. If either the manager or the employee feels the role is not suitable, and there are sound reasons for this, then the employee would also return to being 'at risk' or under notice of redundancy. There may be many reasons why a role could turn out to be unsuitable and each situation will be different. However, the rationale does have to be reasonable and based on fact. Should an employee decide that they do not want to do the new role without there being a valid reason, then the employee would no longer qualify for redundancy and their employment would come to an end at the end of the notice period, without qualifying for a redundancy payment. The same would apply should an employee refuse an offer of a redeployment opportunity that is considered a suitable alternative position. Should the employee commence a trial period during the initial consultation they will still receive notice of redundancy at the end of the 30 day consultation period.

Salary Protection

Salary protection will normally only apply where the employee is selected for a role one grade lower. Consideration will be given to protecting salary where the difference is greater than one grade in exceptional circumstances and the decision based upon the reasonableness of the additional costs and the rarity of the skill knowledge or experience that may otherwise be lost.

This protection is for Salary only and does not extend to annual leave, notice periods, market supplements or honorariums.

This is provided for employees with 2 years local government service or more, with details as follows:

- 12 months at 100% of the difference between the employees old and new salary, with no increments or pay awards, followed by 6 months at 50% of the difference between the employees old and new salary, again with no increments or pay awards
- At the end of this 18 month period the employee will receive their new salary and be placed at the maximum point on this grade

Suitable alternative employment

In order to mitigate the need for compulsory redundancy, where an employee is unsuccessful in securing a position within their restructured area of the Council they will be placed in the 'Redeployment Pool' where consideration will be given to suitable alternative opportunities as they become available, whilst they work through their notice period.

Employees either at risk or under compulsory notice of redundancy are given priority for open vacancies and will be considered in advance of any other applicants.

The selection process will vary, depending on the role and number of people in the redeployment pool interested in the role.

When an employee is successful as a result of a selection process they will be redeployed into the post, for a trial period.

Compulsory Redundancy

Notice of Redundancy

Where compulsory redundancies are required, notice of redundancy will normally be issued to employees at the end of the consultation period. For operational reasons, on occasions, the Council may, however, decide to delay the issue of notices of redundancy until after the selection process into

the new roles is complete. The search for suitable alternative employment elsewhere in the Council will continue until the final date of employment.

Once issued with notice of redundancy employees are entitled to reasonable time off, with pay, to search for work or to arrange and attend training. This must be agreed in advance with the employee's line manager.

Redundancy pay

Employees must have two years' continuous service to qualify for a statutory redundancy payment.

Under WBC's Employer Discretions – Statement of Policy (Regulation 5), Redundancy pay is currently calculated based on actual week's pay and will be paid either on the Employee's final salary date or within 5 days of the last date of employment. The employee will receive:

- 0.5 week's pay for each year of completed service up to the age of 21
- 1 week's pay for each completed year of service from age 22 to 40 years of age
- 1.5 week's pay for each completed year of service from age 41 and over

Only full years of service are taken into account when calculating statutory redundancy entitlement (up to a maximum of 20 years).

A redundancy payment is not paid when:

- An employee under notice of redundancy is offered employment with another body covered by The Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1999 (the Modification Order). The employee is not dismissed in law and retains continuity of service for statutory redundancy purposes. This only applies where the offer is made before the end of the old contract and the employment starts within four weeks (with a week running from Sunday to Saturday) of the date of redundancy. By definition an employee cannot be redundant where there is not a dismissal
- an employee unreasonably refuses an offer of suitable alternative employment
- An employee commits an act of gross misconduct and is dismissed for a reason other than redundancy

Notice Period

The employee's notice period will be applied in line with their terms and conditions of employment.

The Council will try to accommodate requests for early release during notice periods. Consideration will be given to the impact this will have upon service delivery.

Garden leave and pay in lieu of notice may be discussed and mutually agreed in certain circumstances. Where pay in lieu of notice is mutually agreed, this can only be granted on the basis that the employee understands that they will not be considered for suitable alternative roles (i.e. redeployment) during their notice period.

Employees aged over 55 and members of the Local Government Pension Scheme (LGPS)

Employees who are members of the LGPS, aged 55 and with 2 or more years membership in the pension scheme (including membership of other pension schemes transferred into the Berkshire LGPS), will qualify for immediate pension where employment is ended on the grounds of redundancy, or in the interests of the efficiency of the service. There is a cost to the Council for early release of the pension.

The Modification Order does not apply to early retirement and payment of pension would still go ahead, even though the redundancy payment would not, should the employee gain alternative employment with a body covered by the Modification Order.

Appeals against termination of employment

Employees will be given the right to appeal against the decision to terminate their employment by reason of redundancy when they are given their notice of redundancy, and have 5 working days to exercise this right. An employee appealing against the decision to terminate their contract of employment must submit a written appeal to their Director, or the Chief Executive if they are an Assistant Director or above.

Employees will be given at least five working days' notice in writing of the appeal hearing which should be heard as soon as possible.

The date of termination of employment will not be delayed pending the outcome of the appeal.

The process of the appeal hearing will be the same as for the Grievance Policy & Procedure.

The decision of the appeal hearing will be final.

Further information

Template forms, letters and tools are available from HR. For any questions or further information please contact an HR Specialist by emailing hrenquiries@wokingham.gov.uk or on 0118 974 6116.