**Managing Change Procedure**

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18. **Introduction**

1.1 This document explains how the Council will handle change and reshaping for all employees. It aims to manage changes well, avoid compulsory redundancies and support the wellbeing of affected employees. It should be read with the Managing Change Policy.

1.2 The procedure is to support managers who need to make changes to service/teams structures, job roles, grades, terms and conditions or service delivery. It covers change situations that may or may not result in redundancies.

1.3 The procedure balances the need for and implementation of change with minimising service disruption and maintaining employee wellbeing.

1.4 A fair, reasonable, objective, and transparent approach, based on the principles in the Managing Change Policy, will be followed.

1.5 Throughout the procedure the Council may delegate authority to a different level of manager depending on availability and impartiality.

**2. Support for Employees and Managers**

2.1 The Council understands that reshaping and/or redundancy can be unsettling and stressful for employees therefore support and guidance is available to help manage this.

2.2 Employees can get advice and support from these sources:

* The Council’s Wellbeing information on the Share Point site or well-being booklet
* Occupational Health – they can provide counselling with a self-referral
* Trade union representatives – they can provide support and advice for union members

The HR Service can provide contact information for these sources.

2.3 Managers should understand the reshaping process and ensure that redundancy is considered as a last resort. Managers should ask the HR Service for advice before starting any formal process, and they can also get personal support (as they may be going through the change process too) from the sources above.

**3. Preparation, Planning and Approval**

3.1 Managers should always communicate clearly and openly with their employees where it is envisaged that a change or reshaping is required. We need to ensure that our approach to the preparation, planning and implementation of this procedure focuses on being inclusive and ensures opportunities are accessible and within reach of disadvantaged and often marginalised groups.

3.2 In order to proceed with a reshaping, the manager should set out the business rationale for this and obtain approval from the Corporate Director. The manager should outline the potential implications, such as whether there are likely to be any potential redundancies as a result. A Statement of Change document should be completed to obtain approval (Appendix 1). An equality impact assessment should also be completed at this stage.

3.3 After approval, the manager leading the reshaping, with HR support, should prepare a timetable/plan of events to inform trade unions and employees about the potential changes.

3.4 Before formal consultation, you are required to consider the following actions with Trade unions and employees to mitigate the risk of redundancy:

* Review employees on temporary or fixed term contracts considering their rights
* Restrict/freeze recruitment and try to fill vacancies from existing employees
* Delete funded vacancies where possible
* Stop or reduce any overtime or additional temporary employees

**4. Consultation**

4.1 Consultation involves exchanging views and opinions and meaningful discussion to seek to try and reach agreement, all views/proposals will be considered.

4.2 Consultation should cover the purpose and scope of the reshaping together with an explanation of why this is necessary. It should also include details on how the changes will be implemented, together with timescales and the impact for all those affected.

4.3 The Council will write to the relevant trade union(s) prior to the first group consultation meeting with the following information in accordance with section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992:

* The reasons for the proposals
* The numbers and descriptions of posts which it is proposed are ‘at risk’ of redundancy
* The total numbers of employees of any such description at risk of redundancy
* The proposed method of selecting employees for redundancy
* The proposed method of carrying out the dismissal including the period over which the dismissals are to take effect
* The proposed method of calculating the amount of any redundancy payments.
* The number of agency workers working temporarily for and under the supervision and direction of the Council.

The Council will also provide:

* The total number of employees within the relevant service areas; and
* The date of the first consultation meeting.

4.4 In accordance with current legislation the consultation period will normally be for at least 30 calendar days, longer if there are more redundancies i.e. 45 days if over 100.

4.5 To ensure a structured approach to the consultation process, a statement of change consultation document with the proposals and a timetable must be developed and shared with employees and Trade Union representatives.

**Commencing consultation**

4.6 A meeting will be arranged with Trade Unions to explain the proposals and the consultation timelines prior to meeting with the staff in scope. The manager leading the reshaping will be responsible for managing the consultation process with support and advice from HR as needed.

4.7 The manager will write to invite all employees likely to be affected and trade union representative(s) to the first consultation meeting. This also includes employees who are away from work. Employees on leave (such as maternity, paternity, parental, adoption, shared parental, sick or other leave) must be consulted on the reshaping with sensitivity.

4.8 The consultation meeting should include information from the Statement of Change i.e.:

* The reasons for the change
* Implications of the change
* Details of the proposals
* Any posts which are at risk of redundancy
* All posts in scope
* Strategies to try to avoid and or minimise redundancy
* The procedure to be used
* Selection process and criteria for identifying redundancy selection
* The timescales and deadlines
* Dates of any subsequent consultation meetings
* How people can respond to the proposals
* Support mechanisms
* Equality Impact Assessment

**During consultation**

4.9 During the consultation period, employees and trade unions can formally respond to the proposals. Managers will keep talking with employees and trade unions throughout the process. Managers will offer affected employees’ meetings on a one-to-one basis or with affected groups. Staff can be accompanied by Trade Union representatives or supported by a work colleague at these meetings.

4.10 There will be at least one meeting during the consultation period to provide updates, feedback and let employees ask questions, share their views and information on any alternative proposals.

4.11 Where it is determined that more time is needed to consult on any proposals, the consultation may be extended by a reasonable period. The revised timeline for consultation should be clearly communicated to all affected employees and the trade unions, with the end date clearly communicated.

**Ending consultation**

4.12 At the end of the consultation period, when all feedback and alternative suggestions have been considered. The manager will meet with the trade unions to confirm the decisions.

4.13 A final meeting will then be held for all staff in scope attended by trade unions to outline the final timeline and outcomes.

**5. Redundancy selection**

5.1 At all times the application of this procedure will meet, at a minimum, statutory and employment law requirements, and ACAS good practise.

5.2 As such redundancy relates to the job role (not the employee) and is defined as a dismissal for a reason not related to the individual.

5.3 In order to ensure that the selection of any employees for redundancy is fair, a selection pool will need to be identified, and selection criteria established to determine which employees are at risk of redundancy.

5.4 A VR window will be open in all cases where there is the potential risk of redundancy. All employees identified as in scope of the proposals can express an interest in VR. It should be noted that any interest or application for VR will be assessed on a case-by-case basis in line with business needs. An employee’s expression of interest in applying for VR will not imply any commitment on the part of the employer or employee concerned.

5.5 Applications for voluntary redundancy will be considered by the Assistant Director based on the operational needs of the service area for particular types of employees with specific skills and experience. The Council has the right to retain any employee on the grounds of specialist knowledge, training, and qualifications to preserve organisational balance and therefore has the right to refuse or to accept any volunteers for redundancy.

5.6 Voluntary redundancies are not guaranteed until approval by the relevant Director.

**6. Assimilation**

6.1 Assimilation is the process of selection into the new structure based on a match between current and new role profiles which will be undertaken based on employees’ permanent substantive position.

6.2 Prior to consultation employees will be given the opportunity to review their role/ job profile to ensure it contains an accurate description of tasks. Employees should use the document at appendix xx to provide additional information about their role. This document will need to be approved by the relevant line manager before it can be submitted for consideration with the role profile as part of the assimilation process.

6.3 All assimilations will be carried out on an anonymised basis.

***Assimilation Outcomes***

* 1. The three outcomes of Assimilation are:
* ***Direct Assimilation***

A desktop comparison assessment will be completed by the relevant Senior Manager and HR using the new and current role profiles.

Direct assimilation will only occur where there is an 70% role match in comparing the new and current role.

Once an employee has been offered a post to which they were assimilated and they have accepted it, they cannot then be considered for any other post until the ring-fenced vacancy process has been completed.

* ***Competitive selection - when there are more people than posts.***

A competitive selection process will be required for recruitment to those posts where there are more employees who meet the Assimilation criteria than jobs. In most cases this will be in an interview format but in some cases other methods such as, observation, desk top assessments or redundancy selection criteria may be more appropriate. The method used will be included in the statement of change for consultation.

* ***Not Assimilated***

Employees who have not been assimilated to posts, will be formally placed ‘at risk of redundancy’ and afforded ‘ring fenced’ status in the Ring-Fenced Vacancy Process.

6.5 Management and Trade unions will meet to discuss and challenge the anonymised assimilation outcomes prior to communicating them to employees.

**Appeal**

6.6All employees can appeal the Assimilation outcome if they wish. They will have 7 calendar days to challenge the decision and will need to provide written evidence to support the reasons for appeal. Some appeals may be considered in writing without the need for a meeting however if a meeting is required employees can be accompanied by a trade union representative or supported by work colleague. The appeal will be considered by a Senior Manager from a different Directorate to that going through reshaping.

6.7 The Assimilation appeal outcome is final.

**7. Ring fenced vacancy process**

7.1 Where an employee has not assimilated into one of the posts in the new structure, they will be considered for any remaining posts before the posts are opened to wider competition.

7.2 Employees will be provided with the details of the remaining vacancies to be filled in the structure and will be allowed to express an interest in any role.

7.3 Employees will then be invited to attend an interview and/or an alternative selection process, as appropriate.

7.4 All appointments to posts in the new structure will be made on Cumberland Council/Westmorland and Furness Council terms and conditions of employment.

7.5 Where an appointment is made to a lower graded post, the council’s Pay Protection Procedure will apply.

**8. Notice of redundancy and confirmation**

8.1 Where there are no suitable roles available with the implementation of the new structure, a meeting will be convened to consider final options prior to issuing notice of redundancy. Notice will be issued based on the greater of the employee’s contractual or statutory entitlement.

8.2 Employees will be given 5 working days’ notice of the meeting. The employee has the right to be accompanied by a trade union representative or supported by a work colleague.

8.3 At this meeting, the manger will confirm the circumstances which have led to the redundancy and the employee will be able to put forward representations in relation to being made redundant.

8.4 The manager will consider any final options such as redeployment to other roles which may be suitable. Where there are no alternative roles, an employee remains at risk of redundancy and the manager will issue formal notice of dismissal on grounds of redundancy. They will set out the contractual or statutory notice period, termination date and any redundancy payment. The manager will continue to support the employee to secure an alternative role through redeployment.

8.5 The manager will confirm the outcome in writing to the employee. This may be issued at the end of the meeting if no alternatives have been identified, but where this is not possible, the outcome will be sent to the employee, normally within 5 working days after the meeting. The letter will also set out the employees’ right to appeal against the decision to make them redundant.

# Appeals Procedure

9.1 Employees will be given 10 working days from receipt of the notice of redundancy letter to submit an appeal against the decision to dismiss them on grounds of redundancy.

9.2 Employees should submit their appeal in writing, setting out the reasons as to why they feel they were unfairly selected for redundancy. When a formal appeal is received, the appropriate manager will acknowledge receipt of the appeal and confirm to the employee the details of the appeal hearing. The appeal will be heard, normally, within 10 working days after the appeal has been lodged. Appeals must be heard prior to the expiry of notice. The manager will also inform the HR that an appeal has been lodged.

9.3 The employee will be given at least 5 working days’ notice of the hearing (except where the date of notice expiry prevents this) and will be given the right to be accompanied by a trade union representative or supported by a work colleague.

**Appeal Hearing**

9.4 The appeal hearing will be chaired by a manager of the appropriate level, normally an Assistant Director, with no previous involvement and have been independent of the decision making. A HR representative and a note taker may also be present.

9.5 The employee may be represented and/or accompanied at the hearing by a trade union representative or supported a work colleague. It is the employees’ responsibility to obtain their own representation, ensure this is in place for the hearing, and notify their representative of the date, time, and venue of the hearing.

9.6 The employees’ reasons for appeal will be considered. The manager chairing the hearing will review any relevant documentation to ensure a fair process was carried out, and the reasons for selection were fair.

9.7 Any meeting may be rescheduled if needed to ensure representation.

**Appeal outcome**

9.8 An appeal hearing outcome letter will be sent to the employee, normally within 5 working days of the hearing.

9.9 The appeal outcome letter will set out the decision regarding the employee’s appeal and an explanation as to the reasons for this outcome.

9.10 The appeal decision is final, and the employee has no further internal right of appeal.

9.11 The employee will continue to be supported through the redeployment process.

1. **Redeployment**

10.1 The Council aims to retain the valued skills, knowledge, and experience of employees, and as such will seek to avoid redundancies where possible and seek to redeploy staff displaced through change. Support will be provided to all employees looking to secure suitable alternative employment within the Council.

10.2 Employee’s at risk of redundancy will be supported by a manager, who will meet with the employee to assist them in identifying suitable alternative employment opportunities and identify any training needs.

10.3 Selection to posts may be necessary, this may include an interview and/or other selection methods. Any appointments made will be on Westmorland and Furness/Cumberland Council pay and grading structure and terms and conditions of employment.

10.4 Where posts are not considered suitable alternative employment in redundancy terms employees will not forfeit their right to redundancy compensation if they decline a post and alternative employment is not found within the organisation. However, employees who unreasonably refuse offers of suitable alternative employment made before termination may forfeit their right to a redundancy payment. Management must show both suitability of offer and unreasonableness of refusal considering full evidence presented by the employee in question.

10.5 Fixed term contracts can be used, where appropriate, to retain employees whilst further suitable alternative employment is sought.

10.6 Employees who have been given notice of redundancy can take a reasonable amount of time off, with pay, to look for new employment or to make any arrangements for training for future employment.

10.7 Further information relating to redeployment support can be found in the council’s Redeployment Process.

**11. Trial Period**

11.1An employee who accepts an offer of alternative employment following written notification of redundancy will be offered a trial period could typically no less than 4 weeks to 12 weeks and to see if the post is suitable. If required, the trial period may be extended in certain circumstances to a maximum of 3 months by prior written agreement with the employee, to retrain for the new job. The employee retains the right to redundancy pay if after the trial period the new post is deemed not suitable.

11.2 The purpose of the trial period is to give the employee a chance to decide whether the new job is suitable without losing the right to a redundancy payment. The manager should also use the trial period to assess the employee's suitability for the role and to consider what if any additional training is required.

11.3 Employees who accept any alternative employment beyond the trial period will forfeit their right to redundancy payment.

**12. Pay Protection**

12.1 The Pay Protection Policy will apply to employees who are assimilated or redeployed into a post at a lower grade than their current position or where their hours have been reduced as a result of the reshaping, their salary will be protected for a period of 12 months.

12.2 At the end of the 12-month period they will be placed on the top increment point of the grade of their new post.

**13. Workplace Relocation**

13.1 If employees are to be relocated and will incur additional mileage, then the workplace relocation – support for additional travel assistance scheme will apply.

**14. Restructure Vacancy Management**

14.1 External advertising of remaining vacant posts following Assimilation will not take place until VPP and Redeployment advertising and selection has been completed.

14.2 There may be exceptions to this for example where recruitment is essential for statutory or safeguarding purposes, there are more posts than employees whose jobs are at risk or where those in scope don’t wish to be considered for a job. Any exceptions will be discussed with trade union representatives.

# Redundancy Payments and Statutory Notice

15.1 Redundancy payments are calculated on the following basis for employees on Cumberland and Westmorland and Furness terms and conditions:

* **Voluntary Redundancy** = Based on age and service using the statutory weekly pay limit using actual weekly pay (capped at £1000 per week) multiplied by 1.5
* **Compulsory Redundancy** = Based on age and service using the statutory weekly pay limit using actual weekly pay (capped at £1000 per week) multiplied by 1.5

**Please note employees who are employed on different terms and conditions due to TUPE may have a different redundancy payment entitlement and this will be honoured accordingly.**

15.2 The Council will apply contractual or statutory notice periods, whichever is higher.

15.3 Contractual notice periods will be specified in employees’ terms and conditions of employment. Statutory notice periods are shown in the table below:

|  |  |
| --- | --- |
| **Time worked for employer** | **Minimum notice employer must give employees** |
| One month up to 2 years | One week |
| Between 2 and 12 years | One week per full year of service |
| 12 years or more | 12 weeks |

15.4 Employees with less than 2 years’ continuous service with the Council and related employers are not entitled to a redundancy payment. However, they are entitled to such paid notice in accordance with their terms and conditions of employment or statutory notice as shown above.

15.5 During the notice period the Council will continue to seek suitable alternative employment for employees who have been given formal notice of redundancy.

15.6 Where it is not possible to serve notice sufficiently early to fulfil the entire contractual or statutory notice requirement, the Council may, at its absolute discretion, make a payment in lieu of notice to the employee and not require the employee to attend work for the duration of the notice period.

**16. Redundancy Payments Modification Order**

16.1 As a Local Government employer, the Council must comply with its duties under The Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999.

16.2 If an employee who is under notice of redundancy receives an offer of a job from another local authority or associated employer\* and accepts and starts working for the new employer within 4 weeks of the end of the individual’s employment with the Council, there is no dismissal for redundancy payment purposes and therefore the employee is not entitled to a redundancy payment.

\* an ‘associated employer’ is a body which is included in the Redundancy Payments (Continuity of Employment in local government) modification order 1999.

**17. Following Implementation**

17.1 When the change process has been implemented there are a number of key steps still to complete to support the transition into the new structure.

17.2 Managers need to ensure they maintain communication and support the wellbeing of remaining employees and those in new positions or teams. You should refer to the Wellbeing information on the councils SharePoint site.

17.3 A review meeting with line managers and other involved services (e.g., legal, people management, Trade Unions etc) to determine what went well and what could have been done differently/better should take place.

**HR/OD**

**February 2024**