Organisational Change
Restructuring and Redundancy Policy and Procedure

Purpose

The purpose of the Council’s Restructuring and Redundancy Policy and Procedure is to set out the approach to managing organisational change within the Council. Policy and procedure establishes a fair, transparent and effective process for dealing with such situations, ensuring compliance with statutory requirements.

Scope

This procedure applies to all employees of Leicestershire County Council employed under the conditions of service of the following bodies:

- National Joint Council for Local Government Service Employees

This policy is not applicable to employees based in schools and colleges with delegated budgets.

Principles

- The Council’s commitment to equality of opportunity will be observed at all times during the operation of this policy and procedure. This will ensure that employees are treated fairly and without discrimination on the grounds of race, nationality, ethnic or national origins, sex, marital status, disability, age, sexual orientation, trade union membership or activity, political or religious belief and unrelated criminal conviction.

- This Procedure will be implemented in line with the six Organisational Values; a focus on the people of Leicestershire, being positive, the desire to achieve results, flexibility, co-operation and speaking up.

- The Council is committed to full and meaningful consultation with employees and with our recognised trade unions regarding proposed organisational changes.

- It is recognised and understood that organisational change may have a significant impact on employees and may involve periods of uncertainty. We are committed to supporting employees through periods of change and to minimising any negative impact.
• The Council will, where feasible, try to avoid redundancies through careful planning including vacancy control measures, natural wastage, redeployment and retraining where possible. The aim is to ensure that the valuable skills, experience and knowledge of our employees are retained wherever possible.

• The Trade Unions’ opposition to compulsory redundancy is recognised and accepted. We will work with them to explore all reasonable alternatives before this happens.

### Roles & Responsibilities

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<th><strong>Line managers</strong></th>
<th>Responsible for initiating, planning, consulting on and implementing organisational change.</th>
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<td><strong>Employees</strong></td>
<td>To consider the implications of the proposals for them as individuals but also for service delivery and to make comments, ask questions and suggest alternative options when appropriate.</td>
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<tr>
<td><strong>HR Services</strong></td>
<td>It is the role of the HR Services team to advise and support managers in the application of the Restructuring and Redundancy Policy and Procedure.</td>
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| **Trade Union or other Representative** | Trade Unions will be consulted on regarding all major changes affecting job security and minor ongoing changes when appropriate and will provide advice and support to Trade Union members. All employees have the right to be accompanied at formal consultation meetings. The employee may be accompanied by:  
  • A work colleague  
  • A Trade Union Representative |
| **Employment Committee** | Responsible for ensuring that the Policy and Procedure is applied consistently and fairly across the Council. |
| **Appeal Panel**  | For an appeal against redundancy, the panel will consist of three officers, the Chair of which will be a senior officer on grade 16 or above. The two other officers will comprise of a senior manager and a representative from HR. |

### Types of Change

**Ongoing Minor Change**

Examples include: Job title change, job description changes or change of Department, Service, team or manager reporting changes.

In order to adapt to changing requirements, it is likely that the Authority will need to make periodic changes to roles, responsibilities and/or working practices. Flexibility is one of the six Organisational Values and therefore
employees are expected to accept reasonable changes appropriate to the level of the post.

Where changes are required, the reasons for these will be discussed with employees and they will be given the opportunity to state their views and suggest any alternative solutions. Affected employees will be given reasonable notice of the change and be supported, as far as practical, to adapt to the new way of working.

Major Changes Affecting Job Security

Examples include: Department/Service or Team restructurings or major changes to working practices or contractual terms (which can include relocating employees)

All of these changes represent a change to an employee’s terms and conditions and therefore there is a requirement to formally consult with employees.

If you are planning to undertake a major change then the following process should be followed:

- Engagement (costs) (insert link)
- Planning (insert link)
- Formal consultation (insert link)
- Implementation: Slotting in, Ring fencing and Selection (insert link)
- Redeployment (insert link)
- Redundancy and Compensation (insert link)

The majority of this policy applies to these types of changes.

Engagement

It is recognised that open and effective communication and consultation is key to successful organisational change. Where possible, managers are encouraged to communicate with employees and Trade Unions at the earliest opportunity. This could be when Departments have been targeted with an efficiency saving or when a Service has identified a need to review working practices in line with new legislation/national guidelines.

In addition engagement and consultation will take place on all aspects of organisational change whether or not there is a statutory requirement, e.g. service policy changes.

The information available at this initial stage will vary depending on the circumstances. It will vary from Departments knowing that they need to save a significant amount of money, which will inevitably lead to redundancies to considering the introduction of a Government White Paper which will affect service delivery.
Communication methods should be appropriate to the information being presented and the employees involved and could include; Departmental briefings, team meetings or newsletters.

The purpose of the engagement is to involve employees and Trade Unions at an early stage so affected employees have the opportunity to give thorough consideration before the formal consultation begins.

Large scale change programmes involving a significant number of employees and partners would benefit from implementing a Communications Strategy which identifies a planned approach.

**Planning**

It is important for Departments to work closely with their HR Business Partners to ensure that there is a strategic plan which ensures as a consequence of implementing organisational change Departments will have the right number of employees with the right skills and experience to deliver the future service.

Forward thinking, strategic workforce planning may help to reduce the need to restructure Services. However, there are many drivers of change (National, Authority and Departmental/Service), so it is inevitable that Managers will at times need to assess whether their current staffing establishment meets the needs of the Authority, Department or Service.

In order to assess the potential impact of a restructuring it is important for managers to have a clear and accurate understanding of their current establishment, which includes: number of employees, grades, hours, fixed term/permanent and details of employees who are on maternity/adoption or long term sick leave.

Managers should build in appropriate timescales when planning a restructuring, this includes, adequate time for drafting the action plan, *(insert link)* the appropriate formal consultation period *(insert link)*, and sufficient time for implementation *(insert link)*. An example project plan can be found at Appendix *(insert link)*.

If redundancies are likely then managers are advised to obtain the potential costs as early as possible in the process. This includes the potential estimated costs for redundancy payments and the capital costs for early release of pension for employees who are over 55/50, see xx *(insert link)*.

When creating new posts, it is important that the job profiles (job descriptions and person specifications) have been subject to Job Evaluation *(insert link)* before the formal consultation period starts.

**Avoiding or Minimising Redundancies**
The Council is committed to minimising the number of compulsory redundancies and therefore the following measures should be used when appropriate:

- Deletion of vacant posts
- Restriction or suspension of recruitment
- Cessation or reduction of overtime
- Termination of casual contracts
- Voluntary reduction in hours
- Voluntary redundancy (insert link)
- Consideration may be given to the termination of fixed term/temporary contracts which were issued as a result of a pending restructuring and therefore are due to expire in line with the restructuring.

### Formal Consultation

#### Timescales

The duty to consult arises where there is a ‘proposal’ to dismiss. This is something less than a final decision but more than considering whether redundancies might be appropriate, in other words at the formative stage.

These requirements also apply when it is proposed to terminate contracts and offer re-engagement in order to implement changes in terms and conditions on which it has not been possible to reach agreement.

The timescales for formal consultation are:

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<tr>
<th>Number of employees it is proposed to dismiss at one *establishment</th>
<th>Length of formal consultation period</th>
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<tr>
<td>100 or more</td>
<td>90 days</td>
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<tr>
<td>20-99</td>
<td>30 days</td>
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<tr>
<td>1-19</td>
<td>30 days**</td>
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**There is no specified statutory minimum period where it is proposed to dismiss 1-19 employees at an establishment within 90 days. However, to ensure meaningful consultation it is recommended in these situations to grant 30 days consultation. However, if the employee/s, Trade Union and manager consider that a shorter formal consultation would be more appropriate (e.g. to minimise anxiety) then this can be agreed. However, all parties must be in agreement in order to progress with a shorter formal consultation period.

*The definition of ‘establishment’ within the legislation is unclear, so therefore a period of 90 days consultation will normally be applied if it is proposed to dismiss 100 or more employees across the authority as a whole. Where these timescales would be problematic for financial or operational reasons, a decision will be taken based on HR advice.
It is emphasised that the above are minimum periods. Longer periods may be appropriate depending on the complexity of the situation, for example a large number of individual meetings needed with employees to discuss the impact of relocation or changes to working hours, or if more time is needed to attempt to resolve issues of disagreement.

If 20 or more redundancies are proposed at an establishment (e.g. across the Authority) the Department for Business, Enterprise and Regulatory Reform (DBERR) must also be notified, on Form HR1 http://www.insolvency.gov.uk/pdfs/rpforms/hr1.pdf. A copy of Form HR1 must also be given to the trade union(s) by HR Services (Policy team, need to work through. Legal guidance needed to define establishment).

**Action Plans**

There is a legal requirement to disclose information regarding the proposals in writing to affected employees and Trade Unions. This requirement is met by drafting a formal consultation document, known as an Action Plan ([Insert link]) a template has been provided for managers. The information needed is:

- The reasons for the redundancy proposals
- The numbers and descriptions of employees whom it is proposed to dismiss as redundant
- The total number of employees of any such description employed by the employer at the establishment
- The proposed method of selecting the employees who may be redundant
- The proposed method of carrying out the dismissals, including the period over which the dismissals are to take effect
- The method of calculating redundancy payments

Draft Action Plans should be agreed by the Departmental HR Business Partner before formal consultation begins.

The Action Plan is a draft document during the formal consultation period and may be amended to reflect agreed changes as a result of consultation.

**Formal Consultation**

**Who with?**

Consultation must take place with the Trade Union(s) recognised in respect of the category(ies) of employees affected, whether or not any of the employees are Trade Union members. ‘Employees affected’ means employees who are actively at risk of redundancy and those affected by measures associated with the redundancies e.g. employees having to take on reallocated work.

Employees on maternity/adoption leave, long term sickness absence, secondment and career breaks should also be formally consulted with and therefore appropriate arrangements should be put in place, e.g. inviting them
to meetings, sending information to home addresses or visiting employees at
home. Details of this should be recorded.

Consideration should also be given to informing / consulting with other
stakeholders/partners, e.g. other LCC services, Primary Care Trusts, if
applicable. However, this is not a statutory requirement.

**How?**
The distribution of the Action Plan to affected employees will trigger the start
of the formal consultation period; a copy should also be given to the Trade
Unions at the same time or shortly after this.

Any employee/s who may be affected more severely, for example if their post
is proposed to be deleted, must be advised individually **before** any collective
meeting.

If appropriate, collective meetings should also be held to consult with
employees and Trade Unions.

The number of individual and collective meetings throughout the formal
consultation process should be appropriate to the change proposed to ensure
that employees and Trade Unions are given sufficient opportunities to
consider the proposals, ask questions and suggest alternative options. Managers are advised to keep a record of dates, time of meetings and details
of attendees.

A Trade Union representative should be invited to collective meetings and
employees are entitled to be represented by a Trade Union representative or
a work colleague at individual meetings.

**End of Formal Consultation**
Once all comments and suggestions have been seriously considered, the
Action Plan will be finalised by the manager and authorised by the Director at
the end of the formal consultation period.

Employment Committee will then be sent details of the Action Plan by HR
Services (*Policy team, need to work through*).

Copies of the finalised, agreed Action Plan, which highlights all the changes
which have been made, should then be sent to the affected employees and
the Trade Unions.

**Relocation**

If the proposal is to relocate employees it will be necessary for managers to
consider whether it is reasonable for employees to relocate. In this situation
the following issues should be taken into account:

- Location/mobility clauses within contracts of employment
- Difference between current and proposed journey to work (this includes additional travelling time and cost)
- Method of transport – does the employee have access to own car/suitability of public transport or availability of a lift
- Grade of the employee and whether they travel as part of their role
- Caring responsibilities, both children and adults
- Disability issues

If the Department considers that redeployment is appropriate then the Redeployment Policy and Procedure (insert link) will apply. However, if the employee is not successful in securing redeployment and they maintain they cannot relocate then the last resort will be to make the employee redundant. Engagement (insert link) and formal consultation (insert link) should apply in these circumstances and HR advice should be sought.

**Implementation: (Confirmation in post, Ring fencing and Selection)**

**Confirmation in Post**

When considering a new structure managers must first of all examine the current and proposed structures to assess whether there are comparable posts. This is where a post in a new structure is unchanged, or substantially the same as an existing post (usually defined as more than 70% the same) and the grade is unchanged. If this is the case and there are sufficient posts, the substantive occupant will be confirmed in that post as no redundancy situation exists.

It is essential that these decisions are made objectively and in a consistent way. Therefore it is strongly recommended that at least 2 managers are involved in this process. Managers must ensure that their decisions are based purely on factual and objective reasoning which can be justified and evidenced.

If an employee disagrees with the decision made, then they have the opportunity to meet with the managers concerned to explore and discuss the rationale. Employees are entitled to be represented by Trade Union representative or a work colleague.

In some cases, a group of similar posts may be substantially the same but each post may have a different emphasis. Wherever possible, the holders of these posts will be given the opportunity to express interest in specific posts with a view to mutual agreement on assimilation being reached. However, if mutual agreement cannot be reached then it will be necessary to carry out a structured, but informal and concise selection process.

If an employee declines an offer of confirmation, which is classed as suitable alternative employment, then the option of withholding the redundancy payment should be considered. See with holding a redundancy payment for further information.
Ring fencing
Where there are more employees than posts, or where the duties of the new posts are deemed to be dissimilar to those in the old structure, employees will be selected on the basis of limited competition, with posts in the new structure being ring fenced in the first instance to a defined group of employees.

Employees whose posts have been deleted or changed should not normally be given preferential treatment for higher graded new posts over other employees graded the same as or higher than them (unless the employee has a disability which comes within the scope of the DDA and there are no suitable posts at the employee’s substantive grade).

Where a new post is on a higher grade than any of the employees affected, it may be appropriate to ring fence it to the employees affected, or to a specified group of employees, where the post requires specialist competencies.

Employees on a grade higher than the grade of a new post will not have priority over employees on the same grade as the new post.

Depending on the circumstances, e.g. if the higher graded post has been deleted, it may or may not be appropriate for employees on a higher grade to be included in the ring fence at the same time as employees on the same grade. HR advice should be sought in these situations.

Large scale restructurings may require complex ring fencing arrangements and therefore it may be appropriate to implement primary and secondary ring fences.

If and when all employees whose posts have been deleted or changed are redeployed, ring-fencing will cease and any remaining vacancies will be made available to advertise appropriately.

Fixed term/Temporary employees
Fixed term/temporary and permanent employees should be treated the same when considering slotting in and ring fencing, irrespective of their length of service. However, consideration may be given to not including fixed term/temporary contracts which were issued as a result of a pending restructuring and therefore are due to expire in line with the new structure.

Secondments and Acting Up
Employees who have been seconded or acting up for a period of two years or more will be deemed to be on the higher grade for the purposes of the restructuring but only if the arrangements were implemented in response to a pending restructuring.

Employees on maternity leave
Employers are under a statutory obligation to offer employees on maternity leave any suitable alternative vacancy. This means that if a vacancy that is suitable for the employee exists she must be offered the post even if this
means that she is treated more favourably than other employees who are also at risk of redundancy. Managers are strongly advised to seek advice from their HR Adviser if one of their employees affected by the restructuring is on maternity leave.

**Selection**
The selection criteria used must be fair, clear, non discriminatory and easily evidenced.

The selection methods adopted should be detailed in the Action Plan.

**Reducing the number of posts**
A skills matrix can be used to assess the following:

- Skills, competence, knowledge and experience (based on the job profile)
- Work performance
- Attendance record (which excludes disability and pregnancy related absence and maternity/adoption leave)
- Disciplinary record

An example matrix can be found at xxxx (insert link).

**New posts**
In order to test the skills, knowledge and experience required for the new posts then at least two of the following methods should be used.

- Written submission to evidence how they meet the person specification
- Interview
- Test, which is relevant to the role e.g. presentation

In addition to this it may be appropriate to give consideration to other factors such as work performance, attendance and disciplinary record.

**Employees who haven’t secured a post in the new structure**
If employees have not been slotted in or haven’t been appointed to posts in the new structure, then employees should pursue redeployment with the support of their manager and HR Advisor. Line managers have a responsibility to assist employees in securing redeployment. Further information can be found in the Redeployment Policy and Procedure (insert link). If they do not secure redeployment they will be issued with a redundancy notice letter, either at the end of the formal consultation period or after the selection process has been completed.
Voluntary Redundancy
Voluntary redundancy may be an appropriate measure where there is a need to reduce the existing pool of employees. The pool of affected employees to be invited to volunteer will be defined in the Action Plan.

Inclusion of any employee in the pool to be invited does not guarantee that a request will be agreed.

The criteria used must be fair, clear, non discriminatory and easily evidenced. Criteria may include, cost, skills, competence and experience, work performance, attendance record (which excludes disability and pregnancy related absence and maternity/adoption leave) and disciplinary record.

Directors have delegated authority to agree individual cases of voluntary redundancy subject to the approval of the Head of Strategic HR regarding compliance with this policy and of the Head of Strategic Finance regarding the financial implications.

Where it is proposed to grant a request for voluntary redundancy/early retirement from a Director or a member of a Departmental Management Team the approval of the Employment Committee is required.

Compensation
Voluntary and compulsory redundancy warrants the same compensation.

Employees with less than 2 years continuous Local Government Service: No entitlement to compensation.

Employees not in the Local Government Pension Scheme with at least 2 years continuous Local Government service: A redundancy payment based on age, length of service and salary. See the ready reckoner (insert link).

Employees in the Local Government Pension Scheme aged under 50/under 55* with at least 2 years continuous Local Government service: a redundancy payment, as above. Pension benefits will be deferred and will normally become payable at the earliest date without reduction. However, if this date is after age 60, benefits may be taken from age 60 subject to a reduction. Alternatively pension benefits may be transferred to another pension arrangement.

Employees in the Local Government Pension Scheme aged 50/55* and over with at least 2 years continuous Local Government service: a redundancy payment as above and immediate payment of pension benefits with no reduction (subject to a minimum of three months’ scheme membership).

*From 1 April 2008 the age of eligibility for immediate pension benefits will be:
Until 31 March 2010: 50 for employees who were in membership of the Scheme at 31 March 2008, 
55 for employees joining the Scheme from 1 April 2008 onwards
From 1 April 2010: 55 for all employees

**Deletion of hours – Compensation payment**
Where there is a proposal to delete hours from an existing post and the post holder accepts the new hours, the employee will receive compensation on the basis of a redundancy payment pro rata to the number of hours lost (provided they have a statutory right to a redundancy payment) ([insert link]). As the employee is not redundant the payment will be taxable.

**Pay protection**
If an employee is redeployed into a post one grade\(^1\) below their current grade, salary will be protected on a red-circled basis (i.e. frozen – no incremental progression or pay awards) for two years or until the maximum salary for the new post becomes higher than the frozen salary, whichever is the earlier. Where the new post is more than one grade below the employee’s current grade, the employee’s salary will reduce to the maximum of the grade above the grade of the new post and be red-circled as above. The cost of protection will be met by the original employing service area.

There will be no protection of any other payments (e.g. allowances, enhancements) and all other conditions of service will be those pertaining to the new post.

Pay protection will not apply where Flexible Retirement has been agreed.

**Flexible retirement**
A member of the Local Government Pension Scheme aged 50/55 * and over who is redeployed to a lower graded post, may request release of their pension. ([Link to Flexible Retirement](#)). However, if there is a cost to the Authority, then the request may be declined.

*The earliest age for flexible retirement increased from age 50 to 55 from 1\(^{st}\) April 2008 for new members, and from 1\(^{st}\) April 2010 for existing members being moved over to the new scheme.

**With holding a redundancy payment**
No redundancy payment will be made if, in the view of the Director, an employee unreasonably refuses an offer of suitable alternative employment, including declining confirmation in post ([insert link](#)) or unreasonably terminating a trial period ([insert link – Redeployment Policy](#)).

When determining ‘suitable alternative employment’ the following factors should be considered:
• Whether the employee can reasonably be expected to do the work, taking into account his/her level of seniority and skills
• Whether the terms and conditions are substantially less favourable
• The rate of pay and value of any contractual benefits
• The duties, level of responsibility and status
• The place of work and its proximity to the employee's current workplace (and whether there is a mobility clause in the employee's contract)
• The number of hours and working pattern
• The working environment e.g. working conditions

The employee must be advised in writing of a decision to withhold a redundancy payment, which should include the reasons for this decision.

Redundancy Process
When the decision has been made to who will be made redundant, then the following steps must take place:

• A meeting/s with the individual employee to discuss the selection decision, redeployment and support measures. If the employee challenges the decision, then it may be the case that more than one meeting is needed in order to fully explore the issues. Employees may be represented by a Trade Union representative or work colleague at these meetings.
• Redundancy notice letter/s sent in line their statutory or contractual notice period, which ever is the greater. This is completed by the appropriate HR Advisor.

Right of Appeal
An employee has a right to appeal against their redundancy dismissal. The appeal must be submitted in writing and sent to the Director of the Department within 20 working days of receiving their redundancy notice letter.

The appeal will be heard by a panel of three Members of the County Council.

Supportive Measures

Employee Welfare Service
Employees affected by organisational change will be advised how to contact the Employee Welfare Service which can provide counselling support.

Time Off to Arrange Training or Seek Alternative Employment
An employee under notice of redundancy will be granted reasonable time off work with pay during his/her notice period to look for new employment or to make arrangements for training for future employment. This will include time off to attend job interviews or visit an employment agency or job centre in connection with new employment, either for Local Authorities or private sector companies.