

General Purposes Committee

AGENDA STATUS: PUBLIC

Report Title	Redundancy Framework
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Date of Meeting:	24 January 2012
Directorate:	Finance and Support
Ward(s)	None

1. Purpose of report

- 1.1 This report seeks approval for the proposed Redundancy Framework for all staff groups at Northampton Borough Council.

2. Recommendations

The Committee is recommended to:

- 2.1 Approve and adopt the Redundancy Framework, attached at Appendix 1

3. Report Background

- 3.1 The Council currently has two documents that refer to redundancies – the Early Retirement document and the Restructure Policy.
- 3.2 The Early Retirement document predominantly refers to redundancy in the context of staff who are made redundant and would also, due to the Local Government pension scheme rules take Early Retirement.
- 3.3 The Restructure Policy was developed in 2008 due to a large scale restructure of the Housing Directorate that was scheduled and the Council did not have an agreed restructure process to follow. The Restructure Policy was devised and agreed with the Trade Union side in October 2008 in order to formalise a process for the Housing Restructure. In the absence of other restructure guidelines, this policy has been adopted for all restructures within the Council.
- 3.4 It has been recognised through feedback from employees and managers that the Restructure policy has been cumbersome to follow and adds unnecessary steps to changes in working practices that do not involve redundancies. The Early Retirement document is a factual document linked specifically to the Local Government Pension Scheme Regulations and does not provide specific guidance for managers on redundancy situations.

- 3.5 To address these issues the redundancy framework has been produced. It is intended that this will replace the restructure policy to formalise the arrangements that are to be undertaken in situations where restructures may lead to redundancies. In the event of changes to working practices which will not lead to redundancies, management guidance notes have been produced to assist managers to reach a swift resolution to these issues, thus improving efficiency and reducing uncertainty for employees. The Early Retirement document has had amendments to ensure that the issue of redundancy is cross referenced to the proposed Redundancy Framework.
- 3.6 The Redundancy Framework has been discussed at the Council's Management and Trade Union Consultation Meetings since November. At the MTUCM meeting on 18 January 2012, the Redundancy Framework was unanimously agreed by both the Trade Union side and Management.

4. Implications

Financial Implications

There are no specific financial implications linked to this Redundancy Framework. However the main benefits of the framework are the ability for the organisation to become more agile in changing working practises in conjunction with staff.

Legal Implications

This framework will be used by the Council to guide the Council and other stakeholders subject to possible redundancy and as such will reduce the risk of legal challenge. The legal implications are covered within the body of the attached framework.

Equality

The framework is utilised to ensure that equality principles are utilised when undertaking selection for redundancy. An equality impact assessment is required as part of each business case when a redundancy situation is proposed.

5. Background Papers

Redundancy Framework - Appendix 1

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APPENDIX 1 DRAFT ONLY



NORTHAMPTON
BOROUGH COUNCIL

REDUNDANCY FRAMEWORK

1. Introduction

Northampton Borough Council values its employees and aims to manage all employment related matters in a fair, transparent and consistent manner. This Policy, which has been produced in consultation with the Trade Unions, sets out the processes and procedures we will follow when implementing major organisational change that may involve the possibility of redundancies. Management and the Trade Unions are committed to working together through all stages of this process.

2. Scope

This framework applies to all employees of Northampton Borough Council. This framework does not apply to positions that transfer to another employer as a result of organisational change (Transfer of Undertakings).

3. Approach

The Council is committed to providing continuous employment. However, there are times when it may be necessary to make changes in the organisation to improve performance, the services we provide, for efficiency reasons or to deliver new initiatives. When this happens, we will:

- Aim to minimise redundancies;
- Follow the agreed procedure for any redundancies that do occur so that they
- Carry out meaningful consultation with staff and the Trade Unions;
- Seek alternative employment for all potentially redundant employees;
- Provide timely communication and support to our staff.
- Are handled fairly.

4. Planning Organisational Change

The Directors have delegated responsibility for planning reorganisations within their own Directorates and the decision to begin this process rests with them. However, the Director of Finance & Support and the Head of Human Resources will approve the business case for change and decide whether the Chief Executive and/or Cabinet needs to be consulted.

Management, supported by HR, Legal and Finance, are accountable for justifying planned organisational changes. This includes looking at the financial implications of any changes (including any potential redundancies) before beginning any formal consultation with Trade Unions and staff. However, at this stage it is likely that initial discussions on the proposed changes will take place with the recognised Trade Unions.

Management must consult:

- The Finance Department for estimates of benefits and costs, (this should be done at an early stage, before formally progressing proposals, to assess if the change is viable);
- The Human Resources Department for advice on the employment issues;
- The Legal Department for advice on any key decisions

An overview of the process of planning major changes is shown in the flowchart attached at Appendix 1.

It is recognised that these major changes are unsettling for employees and that the aim should be to complete the process in the shortest practical time, whilst allowing for meaningful consultation.

For smaller changes within the organisation that may result in variations to employee's terms and conditions, the Council's "Flexible Working Time Manager's Guidance Notes" should be accessed and used in conjunction with the Flexible Working Hours document, both of which are available on the Council's Intranet.

5. Consultation

The process of consultation involves giving any person likely to be affected by the changes a fair and proper opportunity to understand fully the matters about which they are being consulted and to express views on those subjects, with full consideration being given to those views. The aim of consultation is to seek mutually acceptable solutions, although recognising that the process of consultation may not always achieve this. Consultation is a means by which alternative options can be put forward and considered with the arguments for and against them being aired, without the necessity to reach agreement.

The purpose of consulting staff and Trade Unions is to encourage cooperation in finding solutions, share concerns and explore options. At any stage during the consultation process there will be opportunities for individual employees to seek clarification regarding their own situation with Management and / or Trade Union Representatives.

We will endeavour to offer a minimum period of 30 days consultation, regardless of how many jobs may be at risk of redundancy. However, there is also a legal requirement to consult where redundancies are proposed, as follows:

- If up to 19 positions are to be made redundant, consultation must be at the earliest opportunity;
- If 20-99 positions are to be made redundant (within a 30 day period), consultation must begin at least 30 days before the first dismissal takes place;
- If 100 or more positions are to be made redundant within a period of up to 90 days, consultation must begin at least 90 days before the first dismissal.

If 20 or more redundancies are identified, notification must be sent to the Secretary of State for Employment on the form HR1. The relevant Trade Unions will also be sent a copy.

It is important to note that the consultation periods stated above relate to *number of employees* potentially redundant, as opposed to number of posts. This will be particularly relevant where more than one employee occupies a generic post.

The Organisational Change Flowchart attached at Appendix 2 outlines what should be covered at each stage of the process.

Before any dismissal takes place, the Council will, as a minimum, always follow ACAS best practice and take the following steps:

- **Step 1 – Consult** – outline in writing the reasons for and nature of the organisational change and give a copy to the employee(s).
- **Step 2 – Meet and follow up** – each affected employee will be invited to a meeting to discuss. The decision of redundancy will be confirmed in writing, including details of the right to appeal.
- **Step 3 – Opportunity to appeal** - if an employee feels the decision is unfair.

To ensure we comply with the above, the consultation plan will include individual consultation meetings with all employees declared at risk of redundancy. A colleague or Trade Union representative may accompany employees to the meeting if the employee wishes to be accompanied.

6. What is Redundancy?

Redundancy occurs when a job has disappeared because:

- The Council is no longer going to carry out the business or service for which the person was employed;
- The Council is no longer carrying out the business or service in the place where the person is employed (in and around Northampton);
- The requirement to carry out work of a particular kind has ceased or diminished. This includes significant change to working practices, resulting in a requirement for different skills, perhaps as a result of re-organisation of services.

7. Avoiding Redundancies

The Council will aim to avoid compulsory redundancies where possible by aiming to:

- Offer suitable alternative employment where a vacancy exists;
- Restrict recruitment in areas where suitable alternative jobs may exist;
- Restrict or reduce the services of sub-contractors or agency workers in areas where suitable alternative jobs could exist;
- Reduce overtime in areas where it will reduce the threat of redundancy or provide job opportunities by doing so;
- Examine the opportunities for re-training and redeployment to other jobs;
- Take into account individuals' preferences where possible, such as requests for a reduction in hours, or a transfer to a different job or location;
- Consider requests for voluntary redundancy, (but see 8 below).

8. Voluntary Redundancy

If the measures outlined in 7 above are insufficient to achieve any necessary reduction in the workforce, expressions of interest in voluntary redundancy may be invited from selected groups of employees.

Voluntary redundancy / voluntary early retirement may not always be considered for financial and operational reasons and the Council will aim to find suitable alternative employment for all redundant employees, even if they have stated a preference for voluntary redundancy.

However, as a last resort before implementing compulsory redundancy, employees' preferences for voluntary redundancy and / or retirement may be taken into account in conjunction with the business requirements. For example, preferences for voluntary redundancy may be considered along with other selection criteria if candidates for new positions have equal skills and experience, and redundancy costs are similar.

There may also be provision for transferred redundancies, known as "bumped redundancy", in accordance with current employment legislation.

Applications will be considered in the light of the need to maintain a balance in the workforce relating to skills and experience to meet the future needs of the Service(s) concerned, as well as the cost to the Council of agreeing to a request for voluntary redundancy/voluntary early retirement. The final decision to accept/reject an application for voluntary redundancy rests with management.

9. Selection Criteria

If organisational change has created new positions, employees will be appointed to those positions in a number of ways:

9.1 Step One – Assimilation

If the new position is the same or substantially similar to the old, employees will be automatically assimilated into the new jobs without the need for a selection procedure as the definition of what constitutes a redundancy situation (outlined in Section 7 previously) has not been met. Their Job Description will be amended accordingly when the new role commences. Exceptions to this are where there are less posts than people affected and in these circumstances, Step Two below needs to be followed.

9.2 Step Two – Ring-fencing

If the new position is comparable to the old, taking into account the following factors, employees may be "ring fenced" to the new jobs and given priority opportunity for consideration.

- Similar Job Purpose
- Similar accountabilities
- Similar pay
- Working hours
- Work location

1. Equal numbers of people and posts

Unless HR is informed to the contrary, all employees identified as being ring-fenced will be confirmed as having been automatically ring-fenced for the post/s identified as comparable. They will be appointed via an interview process, at which their suitability to undertake the new role will be fully explored and agreement reached on what, if any, training they may require in order to maximise their chances of success.

2. More people than posts

Where there are more people than jobs of a particular type available, employees may be “ring-fenced” and a competitive process will take place based on skills, knowledge and experience relative to the post.

9.3 Jobs offered to employees in the circumstances covered under 9.2 above will be considered “suitable alternative employment” – see 14 below.

9.4 Redeployment

Any remaining employees who have not been assimilated or ring-fenced to any of the new posts are displaced and, therefore, are at risk of redundancy. They will be given priority opportunity to apply for any remaining newly created job opportunities within the new structure, as well as vacancies elsewhere in the Council in line with NBC’s redeployment procedures – see 11 below.

9.5 Appendix 2 gives an overview of the application of the Redundancy Framework.

10. **Redeployment Process**

The redeployment process will be used when a suitable alternative job is not immediately apparent and will run concurrently with the notice period. An employee’s notice period will not start until all other options have been explored including redeployment opportunities within the area as defined in Section 9 above. When these options have been fully explored, notice of redundancy and redeployment to areas outside of the restructured area will be further explored during the notice period.

As part of the Council’s commitment to continued employment, all potentially redundant employees will go into the redeployment pool for the duration of their notice period. HR will add the employees’ details to an electronic list and the Redeployment Panel will identify suitable alternative employment for these employees as and when there are vacancies available.

For a vacancy to be identified as suitable alternative employment, the following factors are taken into account:

- The grade has to be either up to two grades above or one grade below the employee’s substantive post
- The employee has to have the skills, knowledge and experience identified as the essential criteria in the person specification, or this could be achieved with reasonable training (up to 6 months)

You would still have to participate in a suitability interview (see Sections 14 & 16).

The redeployment period for a redundant employee is a minimum of six weeks and after this equal to the employee’s contractual notice period.

During the redeployment period, potentially redundant employees will continue to work in their existing role unless not required.

During the redeployment period, the employee may choose to apply for any vacancies. If the employee is unsuccessful in any application they will continue in the redeployment pool for the remainder of their notice period.

11. Secondment

For employees on secondment at the time of the organisational change, their substantive post (as opposed to any post they may be occupying as a secondee) will be considered against any new posts for the purpose of the processes outlined in 9 above.

12. Fixed Term Workers

In most circumstances permanent employees will have priority over fixed term staff, unless the fixed term member of staff has continuous NBC service for more than 4 years. Where length of service is 4 years or more, fixed-term employees will be included for ring-fenced job opportunities and considered in the same way as permanent employees.

In order to meet the requirements of the Fixed Term Worker Regulations, Northampton Borough Council will ensure fixed term employees are consulted, have the same opportunities to go into the redeployment pool and receive redundancy payments where they are due. Under the Regulations, the circumstances whereby fixed term workers are employed to complete particular tasks and/or to cover a peak in demand and/or where limited funding is available, is accepted as an "objective justification". Fixed-term staff employed in circumstances other than this will be managed on a case-by-case basis during reorganisations.

13. Absent Employees

Where employees are absent during the consultation period, the Council will make provision to contact them at the same time as employees attending work. For employees who are on annual leave, sickness or maternity leave, a decision will be made about how best to consult with them depending on the circumstances.

14. Suitable Alternative Employment

The Council will seek suitable alternative employment for every employee whose job is redundant. Suitable alternative employment is a job that is comparable to the existing post. For clarification of the factors determining suitable alternative employment, please refer to Section 10.

If there are significant differences to the previous position, it probably does not constitute a suitable alternative job.

Where suitable alternative employment is identified, the employee will be required to attend a suitability interview, during which their skills, knowledge and experience will be explored further. If it is decided that the job does constitute suitable alternative employment, it will be offered to the employee. This will be done as far in advance as possible before the end of the notice period. If an employee refuses an offer of suitable alternative work, they must inform the Council within 7 working days of the offer. If the refusal is deemed to be unreasonable it will lead to loss of redundancy pay. However, if an offer of suitable alternative work is made during the final third of the notice period (e.g. for 12 weeks notice, during the last 4 weeks), the employee will not forfeit the right to redundancy pay if they refuse the offer.

Provided that they have the required skills and attributes for the job (or the skill gap can be bridged with training within 6 months) they will be selected for the job above another employee who is not in the redeployment pool.

15. Trial Period

The provision of a trial period when we have offered "suitable alternative employment" gives both employees and management the chance to decide whether the new job is suitable.

The trial period for a "suitable alternative employment" job is 4 weeks. It may be extended by mutual agreement for re-training purposes up to 12 weeks, provided it is confirmed in writing, gives an end date and sets out the terms and conditions at the end of the trial. If any employee continues working beyond the end of their trial period they will lose the right to redundancy pay, as they are deemed to have accepted the new job.

If the Council decides the trial has been unsuccessful (for reasons connected with or arising out of the difference between the previous position and the "suitable alternative employment"), the employee will retain their right to a redundancy payment. If the employee decides the "suitable alternative employment" is not suitable, for whatever reason, the employee will retain their right to a redundancy payment unless the employee is unreasonable in their refusal of the "suitable alternative employment".

Where a trial is unsuccessful any remaining notice period will be honoured, during which time other suitable jobs may arise (and a new trial period would apply).

16. Prior Consideration

During the redeployment period, in cases of redundancy, disability and ill health, some employees will be given prior consideration for suitable alternative employment. (See Section 14).

Employees entitled to prior consideration must still attend a suitability interview that is relevant to the post, where a panel may be present.

In cases where more than one applicant is entitled to prior consideration, the order of priority will be:

1. Redundant employee who is on maternity leave;
2. Disabled employee (as defined by the Disability Discrimination Act);
3. All other redundant employees;
4. Ill health cases, other than disability (as defined by the Disability Discrimination Act) cases.

Where two or more applicants are in the same priority position, the best candidate will be offered the job based on the selection process.

17. Pay Protection

In the event of redeployment the employee will be paid at the rate for the alternative job where this is the same rate or a higher rate than the job previously undertaken. If the alternative job is paid less than the employee's existing job, the employee's contractual

pay will be fully protected at 100% for a period of 12 months and 50% for a period of 3 months. After this, the rate of pay will revert to the rate for the job. Salary protection is paid by the substantive service area.

18. Compulsory Redundancies

Compulsory redundancy will not be considered until all other avenues have been explored and exhausted. In considering compulsory redundancy the Council will have due regard to equal opportunities legislation.

Should compulsory redundancy become necessary, each individual case will be considered on its merits and will be subject to consultation. The criteria on which the final decision will be based is as follows:

- The need to maintain a balance in the workforce relating to skills and experience to meet the future needs of the Service(s) concerned.
- the outcome of the selection process.

19. Redundancy Payments

19.1 Employees with more than two years' service will be entitled to redundancy pay in line with Local Government guidelines and statutory provisions. Redundant employees will receive two elements of their final pay:

- Normal pay (including pay in lieu of any outstanding leave) up to the agreed leaving date;
- A redundancy payment (where entitled) calculated in accordance with the statutory provisions;

In exceptional circumstances, the Council reserves the right to make a payment in lieu of notice. This will only be considered if it is in the best interests of the Authority, or on compassionate grounds, and will require authorisation by the Director of Finance & Support, the Head of Human Resources and the Chief Executive.

19.2 The same provisions apply whether the employee agrees to retire voluntarily or is made compulsorily redundant.

19.3 The provisions are as follows:

REDUNDANCY PAYMENT – To be calculated on actual weekly pay or the statutory maximum for full time employees (at the applicable rate at the time) (whichever is greater) for each completed year of service between the ages of:

- Up to 21 .5 weeks Pay
- 22-40 1 weeks pay
- 41+ 1.5 weeks pay

This is subject to a maximum 30 weeks pay based on the last 20 years service.

PENSION – To be eligible for early release of pension benefits an employee must be:

- 55 or over

- In the LGPS with at least 3 months membership or with transferred service

The scheme gives:

- Early release of pension (which is unreduced)
- Payment of pension lump sum
- Redundancy payment as detailed above.

19.4 The business case for any proposed early retirement(s) on grounds of redundancy and/or redundancy payment(s) must be demonstrated. The business case must include:-

- The costs of the proposed early retirement/redundancy payment(s)
- The on going savings to be achieved
- The timescales within which the savings will be made, which should be achieved within a 3 year period.

The business case must clearly show that there are significant on-going savings which are achievable after all the costs associated with the early termination of employment have been met. The Business case must be endorsed by the Director responsible for the service area where proposed changes will be implemented or the Chief Executive where the proposals will be implemented on a Council wide basis. The business case will be submitted to the Section 151 Officer and another Director who will independently examine the merits of the business case and make written recommendations to the Chief Executive. The decision to approve the proposed early termination of employment and the associated severance payments will be made by the Chief Executive. A record of approved and rejected proposals will be maintained by the HR service.

20. Support for Redundant Employees

Northampton Borough Council recognises that major changes and the risk of redundancy can be a stressful and unsettling time. Managers, with the support of Human Resources, are committed to helping employees by:

- Maintaining regular and effective two-way communication with staff during any reorganisation;
- Supporting employees in their development so they can work towards a new job which may require different skills;
- Allowing reasonable paid time off during working hours to seek alternative employment.

21. Appeals against Redundancy

Employees who are selected for redundancy, or dismissed by reason of redundancy have the right to appeal if they feel that any aspect of the decision is unfair.

21.1 Appeals against Redundancy

This procedure exists to deal with complaints from employees who feel that any aspect of the Redundancy Framework has been unfairly applied. Employees are entitled to register an appeal once notice of redundancy has been issued (before the proposed dismissal date).

- An appropriate Director / Assistant Chief Executive will hear appeals, (where possible this Director / Assistant Chief Executive will be outside of the immediate area(s) affected by the redundancy).
- The employee has the right to be accompanied by a Trade Union representative or colleague at the appeal meeting.
- The employee has 10 working days to lodge an appeal following written confirmation of the outcome of the selection process.
- Statements must be submitted 3 working days before the appeal hearing.
- The aim is to resolve within 15 working days.
- The decision of the Director / Assistant Chief Executive is the final stage in the appeals process. In the event that dismissal due to redundancy occurs, employees can appeal this in accordance with 21.2.

21.2 Appeals against Dismissal

Appeals against dismissal will be held in accordance with the Council's current procedures.

Appendix 1

Application of Redundancy Framework

