

Policy and Procedures for Organisational Review

(To be read in conjunction with the Redeployment Policy, the Policy on Redundancy and Early Retirement and the TUPE Protocol (Protocol for Employee Consultation on Service Reviews, Procurement Decisions and the Transfer of Employees under TUPE) where appropriate (NEDDC) and the Policy on Redeployment and Early Retirement (BDC))

This policy and these procedures apply to all employees of North East Derbyshire District Council and Bolsover District Council, except in the case of potential redundancy of any post subject to the JNC for Chief Officers / Chief Executives of Local Authorities, for which there are separate provisions.

1. Introduction

- 1.1 The Council must have the flexibility to respond to and initiate change. The government's agenda for local authorities is focused on the continuous improvement of efficient service delivery in line with the needs of the public.
- 1.2 There will always be a range of internal and external factors that require the Council to review and redesign what, where, when and how work is done, and by whom.
- 1.3 This document outlines the procedures to be followed when circumstances arise that necessitate changes to organisational structures and employee numbers.
- 1.4 It is the Council's policy to manage organisational change in a way that minimises the impact on employees wherever possible and it will take all reasonably practicable steps to avoid compulsory redundancy. Compulsory redundancies will not be considered until all other approaches have been exhausted. In circumstances where compulsory redundancies are unavoidable, they will be properly planned and carried out in a fair and reasonable manner.

2. Communication and Consultation

- 2.1 The Council is committed to ensuring that employees and their representatives are kept fully informed about decisions and developments and the reasons for them. This is particularly important on issues that affect their own jobs, working environments and work activities. The Council will ensure that employees and their representatives have the opportunity to express their views and to contribute to decision making via the consultation process. Consultation involves giving employee representatives and employees an opportunity to influence decisions about any proposed review before a final decision is taken.
- 2.2 The Council will provide information to all employees employed in an area which is subject to a programme of change, and consult with directly affected employees and recognised unions about the nature of proposed changes.

Consultees (in addition to Affected Employees)

- 2.3 Not all changes will require the approval of elected Members. However the Directors and Chief Executive will establish whether the proposed changes lie within their respective delegated powers, whether to consult with the relevant portfolio holder, or whether the decision is a Cabinet (NE)/Executive (BDC) and/or Council decision. The consultation process may be conducted by a Director, Assistant Director or Service Manager, depending on the scale and extent of the change being proposed, but will always be agreed at SAMT and/or SAJC level before commencement.

Early Consultation

Managers are encouraged to discuss proposals for organisational review informally with Trade Union representatives at as early a stage as possible.

- 2.4 When a proposal for a review has been agreed by SAMT, management will provide information to employees in affected areas and enter into consultation* with employees and their trade union representatives (*see 2.6 below). This will take place whilst the proposals are still at a formative stage and before any firm decisions are made. Outline proposals may be included in the regular Medium Term Financial Plan report, or in a separate freestanding report to Cabinet (NEDDC and BDC) prior to the formal consultation period.
- 2.5 Where the proposals relate to a review affecting both Councils, Union representatives will be made aware of the proposals by management via the Strategic Alliance Trade Union Group. Proposed reviews affecting NEDDC only will be considered at the monthly Trade Union representatives' meeting, and those affecting BDC only will go to the bi-monthly Management Team / Trade Union Liaison meeting.

- * Consultation involves managers actively seeking and taking account of the views of employees before making a decision.

Meeting to Consult on the Proposals

- 2.6 Union representatives will be invited to a meeting at which the proposal will be discussed with staff, with a representative from HR in attendance.
- 2.7 At the meeting, the management proposal will be explained and questions for clarification invited. Feedback or alternative proposals, which could be from individuals or groups or via union representatives, should be invited at the end of the meeting, to be submitted within the first 10 working days of the 30 (calendar) days consultation period. This period may be extended or shortened by mutual agreement.
- 2.8 Once feedback/alternative proposals have been received, these will be considered by management. A response will be given to the comments received, explaining the reasons for acceptance or rejection of the proposals and a proposed way forward communicated. This response will be given within 10 working days of receipt of comments, although this may

also be extended by mutual agreement. Further comments and proposals will be accepted up to the end of the 30-day consultation period.

- 2.9 A further report will be submitted to the next available Cabinet (NEDDC) / Council (BDC) meeting to make a decision on the proposals.
- 2.10 A copy of the final document setting out the changes will then be sent to union representatives and, where practicable, to employees in the affected area.

Potential Reduction in Posts

- 3.1 The Council's policies on Redeployment and Redundancy (NEDDC) / Redeployment and Early Retirement (BDC) will be followed where the proposed change will potentially result in a reduction in the number of posts.
- 3.2 All employees in the affected areas will receive notification of dismissal, outlining the necessary information should the employee not be successful in securing a post in the new structure. This will enable implementation of the new structure to be carried out smoothly and without delay, but in many cases it will be possible to withdraw this notice of dismissal as employees are confirmed in post. (See Appendix 1, Stage 3 paragraph 1)
- 3.3 Part of the consultation process may involve looking at ways to:
 - Avoid the proposed redundancies
 - Reduce the number of employees to be dismissed
 - Mitigate the consequences of the dismissals on the individuals concerned.
- 3.4 Agreement with the Trade Unions and employees is the Council's preferred goal. However management reserves the right to implement its proposals where agreement has not been reached after meaningful consultation has taken place and where the process is considered to have been exhausted, in line with the ACAS Advisory Booklet on Communication and Consultation.
- 3.5 Where it is proposed to dismiss as redundant 20 or more employees at one establishment over a period of 90 days or less, the Joint Assistant Director – Human Resources will ensure that form HR1 is submitted to the Government's Insolvency Service Redundancy Payments Service if necessary.

4. Selection Procedure in relation to Structural Changes

- 4.1 Full details of the procedure to be followed in cases where there is a need for structural changes are included in Appendix 1.

5. Appeals

- 5.1 Any employee dismissed following the application of this procedure shall have the right of appeal in accordance with the appeals provisions of the Council's Grievance Procedure.

6. Payments

- 6.1 Employees who are made redundant (voluntary or compulsory) may be entitled to receive a redundancy payment. The details of entitlement to payments are contained in the Council's policy on Redundancy and Early Retirement (NEDDC) / Redeployment and Early Retirement (BDC).

NB As a result of the Redundancy Payments (Continuity of Employment in Local Government)(Modification) Order 1999, employees, who receive an offer of employment in local government or a related service, to commence immediately, or within 4 weeks of the date of termination of their contract, will not be entitled to redundancy payments.

7. Assistance to Employees under Notice of Redundancy

- 7.1 Employees who are selected for redundancy will be given as much individual help and advice as possible by their managers and the HR Section, and external advice and assistance may be obtained, if considered desirable. Please refer to the Council's policy on Redundancy and Early Retirement (NEDDC) / Redeployment and Early Retirement (BDC).

APPENDIX 1

Selection Procedure in relation to Structural Changes

Job Evaluation

1. Following the consultation process, a job description and person specification will be produced for each post in the proposed revised structure. All new or changed posts will be evaluated in accordance with the Council's job evaluation scheme. Any changes made to job descriptions after the job evaluation will be subject to a discussion with the trade union to establish whether a further job evaluation is necessary.

Schedule of Posts Plan

2. Following Member approval of proposals involving structural changes, the Director / Assistant Director / Service Manager, supported if required by a representative from the HR Section, will seek to agree with the trade union(s) those employees directly affected by the proposal in order to establish those as having rights to posts in the revised structure, and a schedule of posts plan should be drawn up (see Appendix '2').

Stage 1 – Allocation of Employees to the New Structure

1. Following completion of the job evaluation process, if relevant, the Director / Assistant Director / Service Manager will produce a schedule of posts on the existing structure, showing the post title, grade, and name of the employee and whether it is intended to give 'slotting in' or 'ring fencing' rights to that individual (see Appendix '2').
2. Written notification, together with a revised/new job description if appropriate, will be issued to all employees named on the schedule confirming the Director's / Assistant Director's / Service Manager's view and asking them to confirm their agreement to the proposed selection arrangements within 10 working days.
3. Where the post is substantially unchanged i.e. the duties and responsibilities of the post are materially the same, it is of the same status and on the same grade and hours, 'slotting in' will apply. NB If the number of identical posts is reduced then the relevant employees will be interviewed under the Council's Selection Procedure (NEDDC) / Recruitment and Retention Procedure (BDC).
4. Where the Director / Assistant Director / Service Manager considers that there are posts in the structure that do not 'match' according to the above criteria, but which are 'broadly comparable' and can be designated as an 'equivalent' post to that currently held, and there is only one employee with a claim to the post (or no more employees than the number of posts available where there is more than one post), the Director / Assistant Director / Service Manager will confirm to the employee(s) that it is intended that they be 'slotted in' to that

post. In this instance if the post is on a lower grade or at a lower status than that previously occupied, the employee(s) will be entitled to be ringfenced for posts at an equivalent grade/status to their previous post (see Redeployment Procedure). Some posts may, however, also be at a higher salary and/or higher status, in which case they will not be ringfenced for these other posts.

5. Exceptions to exclusion from ringfencing for 'slotted in' employees:

By applying the rules above in relation to the ability for 'slotted in' employees to apply for posts in the new structure, it is possible that, in certain circumstances, the employee could be disadvantaged and suffer inequitable treatment. These circumstances would be where:

- An employee is 'slotted in' to a post on the same or higher grade, and
- Where lower graded employees in the same line management structure have ringfencing rights to a post at a higher grade than the slotted in employee

Under these circumstances, the 'slotted in' employee will be eligible to apply for the more senior post together with the lower graded employees with ringfencing rights. If appointed to the post, that employee's post will, in turn, become available as a ringfenced post.

6. 'Ringfencing' will take place where there are fewer posts in the new structure than eligible employees or where there are posts which contain elements of an employee's previous job, but which do not meet the criteria for slotting in.

In addition, where employees in substantive employment have been seconded into another vacant post on a temporary basis, consideration will be given to giving them 'ringfencing' rights to their temporary post. Should they subsequently be unsuccessful in being appointed to the seconded post on a substantive basis, they will revert to their previous position (i.e. be slotted in to their previous post or, if that no longer exists, potentially at risk).

7. Following agreement of the schedule of posts plan, written confirmation will be sent to all employees confirming that they have been 'slotted in' or 'ringfenced'.

8. Where objections are raised during the 10 day response period (see 2.7 above), the confirmation letter to any employees raising or affected by the objection will be deferred until an individual meeting has been held by the Director with the employee(s) concerned, accompanied by their representative if relevant, to attempt to resolve the objection. At this meeting, the Director will explain the proposals and the employee will be asked to explain why he/she disagrees with the proposal. Following completion of any such meetings, written confirmation, together with a full explanation of the reason(s) for the decision will be sent to the employee(s) concerned. If the employee disagrees with the Director's decision, there will be no further right of appeal. N.B. If the Director has been directly involved with the allocation of employees to posts, the meeting will be held by the Chief Executive.

9. Where employees are slotted in at the same or higher grade, they will be no longer be eligible to apply for posts in the revised structure until other employees with ringfencing rights from the current organisational review (or from a previous organisational review who have not yet obtained substantive employment) have first been considered. However, they will then be entitled to apply for any posts which are still vacant at the point at which it is decided that a post needs to be advertised more widely.

Stage 2 – Ringfenced Appointments

1. Selection for appointment to posts for ringfenced employees will be based on the most suitable candidate. Each employee ringfenced to more than one post may choose to indicate in writing the order of preference and attempts will be made to interview candidates in that order. Appointment to the posts will be carried out in accordance with the Council's Recruitment and Selection Policy (NEDDC) / Recruitment and Retention Policy (BDC).
2. Where the panel does not consider that an appointment can be made to a particular post following interview and assessment of any other employees with rights of prior consideration, the post may be advertised more widely. In the first instance, such posts will normally be advertised internally only, although where it is agreed with the Assistant Director HR that the vacant post is a specialist, technical or professional post then this may be advertised internally and externally concurrently. In the case of a major change involving substantial numbers of employees, SAMT will monitor and approve proposed advertising.

Stage 3 - At Risk Notification

1. To facilitate the smooth implementation of a service review, affected employees will all receive a letter of notice as soon as call-in has passed following Cabinet/ Council approval of the final proposals (NB if the decision has been made by Council, there is no call-in period). This notice letter will identify the proposed termination date, should the employee not be successful in obtaining a post within the review; and it will confirm at risk status to allow the employee to be ringfenced for suitable alternative vacancies. Although redundancy may not be a necessary outcome, outline information will also be given about this option in the interests of completeness.
2. A redundancy situation can only exist where the review results in a reduction in the number of posts needed, or the cessation or reduction of a specific area of work.
3. If employees do express an interest in voluntary redundancy/early retirement, acceptance will be at the discretion of the Council and in accordance with the Council's policy on Redundancy and Early Retirement (NEDDC) / Redeployment and Early Retirement (BDC). However, full details of the financial options should be provided in writing before a recommendation is made to Members.

4. As a general rule, in considering an application for voluntary redundancy/early retirement, the Council will consider the need to maintain effective services, the need to retain a balance of skills and experience and cost implications, as well as mitigation against compulsory redundancy.

Stage 4 Redeployment

1. Any displaced employee who wishes to continue in employment or whose application for voluntary redundancy/early retirement is not accepted, will be invited to complete a skills audit and will be given prior consideration for redeployment into suitable alternative employment before the post is advertised more widely. The Council's Policy on Redeployment (NEDDC) / Redeployment and Redundancy (BDC) will be followed in these circumstances.
2. Where there is a dispute about the suitability of the post, the matter should be discussed between the Appointing Officer and the HR representative.
3. Any employee who unreasonably refuses an offer of suitable alternative employment, will not be entitled to a redundancy payment.

APPENDIX 2

SCHEDULE OF POSTS PLAN

1. Once the new structure has been agreed, then a schedule of posts plan will be drawn up according to the following principles:

Slotting in – Where there is only one potential candidate to a post at an appropriate level and where the post is substantially unchanged, i.e. the duties and responsibilities of the post are materially the same, it is of the same status and on the same grade and hours, they will be slotted in to the new post.

Ring-fencing – 'Ringfencing' will take place where there are fewer posts in the new structure than eligible employees or where there are posts which contain elements of an employee's previous job, but which do not meet the criteria for slotting in. Unsuccessful candidates will automatically be considered under ringfencing arrangements for other appropriate posts, by agreement.

2. The schedule of posts plan will then be produced for discussion and agreement with employees and trade unions:

New Post Title	Grade of New Post	Current Comparable Post(s)	Grade of Current Post(s)	Postholder(s)	Method of Assimilation e.g. slot in, ringfence, competition etc.