

FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE

MONDAY 26 FEBRUARY 2024

Report of the Director of People and Organisational Change

Redundancy, Redeployment and Protection of Earnings Policy

1. Purpose

- 1.1 For the Committee to approve the new Redundancy, Redeployment and Protection of Earnings Policy for implementation on 01 March 2024 which replaces the existing Redundancy, Redeployment, Protection of Earnings and Buy Out of Hours Policies.

2. Information and Analysis

- 2.1 This policy sets out the council's approach to redundancy, redeployment and protection of earnings.
- 2.2 The policy ensures the council meets its legal and contractual obligations.
- 2.3 Other than legislative updates the policy was last reviewed fully in 2015. Given the current financial landscape it is timely to conduct a full review of the organisation's approach to supporting colleagues through change.
- 2.4 The policy aims to provide a consistent, transparent, and effective process, ensuring compliance with good practice where appropriate and statutory requirements, balancing the needs of the council and employees in making organisational changes.
- 2.5 The policy supports the council's aim to safeguard the interest of employees whilst meeting the prime objective of maintaining high quality and cost-effective services.

2.6 This policy provides a framework for managers to deliver change such as:

- restructures due to changes in service delivery.
- rationalising duties in response to technological developments.
- the withdrawal of funds for services which have a direct impact on employees' roles.
- the development of new roles as part of modernisation.

2.7 Where a transformation/redundancy process has started the policy in place at the commencement of formal consultation/engagement will be applied until completion of the process.

3. Consultation

3.1 The council has engaged with the Joint Trade Unions, initially via the Reward and Resourcing Workstream and more recently via the Trade Union Policy Forum. Regular meetings commenced in March 2023 to help inform and develop the changes to the policies outlined within this report.

Details of the Trade Union's position following consultation are provided along with the council's proposals:

Revision	Outcome of Joint TU Consultation	Proposals
<p>Removal at 'group at risk' redeployment status, creating one level of redeployment support at the appropriate time. The current policy has an overly complicated category system including 'individually at risk' and 'group at risk'. The proposal is to remove the 'group at risk' status and have a single 'at risk' status. The 'at risk' status would apply following formal consultation, thereby supporting meaningful consultation and creating a culture of expectation that</p>	<p>Whilst Trade Unions engaged in the discussions they were still not in a position in December 2023 to agree the change and advised that they would provide further feedback in January 2024.</p>	<p>To continue with the removal of group at risk.</p> <p>"Group" at risk is a DCC construct, the law doesn't reference "group" or "individual" at risk. This change will harmonise to a universal language that aligns with ACAS.</p> <p>As there are still areas of discussion/areas that were not agreed with the TUs a final position will be shared prior to ACOS in February 2024.</p>

<p>employees engage with the restructure in the first instance. By removing 'group at risk' it avoids employees securing an alternative role on a protected salary before consultation has concluded, encourages them to go through the process of securing a role in the restructure and avoids the potential of vacancies in the implementation of a new structure.</p>		
<p>Removal of automatic right to 12 weeks' contractual notice, introducing notice linked to the statutory minimum. The 'Working for Us' booklet currently states that any dismissal results in a 12 week notice period (excluding summary dismissals) regardless of length of service. To amend this would be a contractual change and we would seek to amend this through a collective agreement however should a collective agreement not be reached this would require a variation to contract process.</p>	<p>Throughout consultation TUs have been clear that they do not agree to any amendment to contractual notice periods. Unions believe that the automatic right to 12 weeks' notice is a reasonable cost and advised they would resist any change based on the grounds of morality and economics.</p> <p>As TUs were not agreeing they advised ballots would not be necessary. However, if the employer imposes the change, there may be further discussions.</p>	<p>Proposals on notice periods have been withdrawn at the current time. Given the failure to reach agreement with the TUs, to progress this change would require a dismissal and re-engagement of all DCC employees. Such action is not appropriate at this time. However, the council retain the right to revisit these options again in the future.</p>
<p>Amendment to Protection of Earnings Policy. Pay protection</p>	<p>Throughout consultation TUs have been resistant to the reduction in the period of pay protection.</p>	<p>To continue with the reduction in the pay protection period to 18 months and removal of</p>

<p>currently applies for up to 2 years. The proposal is to reduce the council's pay protection period down to 18 months. In addition, it is proposed to remove portability, so any pay protection only applies to the first role obtained, and not to any subsequent positions the employee moves to on a voluntarily basis. Custom and practice continues where protection is for up to two grades less. Any deviation would require a clear rationale and be in the best interests of the council.</p>	<p>As TUs were not agreeing they advised ballots would not be necessary. However, if the employer imposes the change, there may be further discussions.</p>	<p>portability should the employee voluntarily move to another position. The council have shared information and considered feedback in order to obtain agreement. Therefore, have met the requirements of the TU Recognition Agreement (Appendix 1, 2.3.2) to consult and engage with the Trade Unions on additional matters which includes pay protection.</p> <p>By association, the proposed reduction to excess travel from 3 years to 18 months to be progressed as per the TU Recognition Agreement (Appendix 1, 2.3.2).</p>
<p>Buy Out of Hours (BOOH). A measure introduced to seek and minimise redundancies whereby employees are given the opportunity to reduce their contractual hours with the council effectively buying out their reduction. It is proposed that this provision is removed from the policy.</p>	<p>TUs requested more information on the scheme as they felt it was well used and of benefit to their members in any potential redundancy situation.</p>	<p>Further feedback was sought from the HRBP network, and whilst not widely used, the BOOH scheme had proved of benefit in areas where a reduction in hours had mitigated a compulsory redundancy.</p> <p>Therefore, the proposal is to retain BOOH as one of the methods to avoid redundancies but to remove reference to the scheme from the policy title.</p>
<p>Slotting Process. The existing policy requires</p>	<p>TUs were resistant to the removal of a</p>	<p>To move away from numerical 80% or more</p>

<p>a 'match' of 80% for employees to be slotted into a position, with no rationale found for this figure. The proposal is to remove the need for a % to be met and instead compare the JPPs to determine whether roles 'are substantially the same'.</p>	<p>numerical benchmark as felt whilst still ambiguous, it is more certain than "substantially the same".</p> <p>After further discussions TUs agreed to rephrasing the approach and their preferred terminology was 'where the majority of the role content remains the same, and there is no increase in grade'.</p> <p>They were reassured that the slotting exercise would not be based on an individual opinion.</p>	<p>match to enable the council to opt employees into suitable jobs, remove them from a potential redundancy process and retain employees who have the required skills.</p> <p>Although the TUs preferred terminology was 'majority' in law 'substantially' is the recognised term hence the following wording will be applied.</p> <p><i>'Where the role content remains substantially the same, and there is no increase in grade'.</i></p>
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Despite not achieving agreement with the Trade Unions on all proposals, consultation has been meaningful. It has taken place over an extended period of time and has been based on the sharing of information and proposals and listening and responding to comments made by the Trade Unions.

In addition to the above there were more general updates to the policy which were shared with the Trade Unions all of which were acknowledged as summarised below;

- Clarification of the engagement and consultation process including a standardised template to support the provision of a formal collective consultation document where applicable to ensure all impacted employees have all the necessary information they need to understand the process.
- Review of terminology to reflect new roles and responsibilities post implementation of the HR Model in 2020.
- An enhanced section regarding roles and responsibilities to ensure all stakeholders, including employees, are fully aware of their individual responsibilities.
- 'Selection out' matrix amended to support robust decision making, with guidance on its use provided.
- Inclusion of a section on bumping, suitable alternative employment requirements and an update to the section on right of appeal.

4. Alternative Options Considered

- 4.1 The Redundancy, Redeployment and Protection of Earnings Policy is part of the council's terms and conditions of service. A review of the policy was due and provides an opportunity to amend current practice to ensure an agile and supportive framework is in place to support the organisation to modernise.
- 4.2 Do nothing and continue to apply the existing policy. This is not recommended as the existing policy is not clear on how changes align with our people ambition and approach to working in partnership with our trade unions.

5. Implications

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers

- 6.1 None.

7. Appendices

- 7.1 Appendix 1 – Implications
Appendix 2 – Redundancy, Redeployment and Protection of Earnings Policy
Appendix 3 – Equality Impact Analysis

8. Recommendation(s)

That the Committee:

- a) Approve the adoption of Redundancy, Redeployment and Protection of Earnings Policy for implementation from 01 March 2024.

9. Reasons for Recommendation(s)

- 9.1 The adoption of the new Redundancy, Redeployment and Protection of earnings Policy provides a clear framework for all key stakeholders, setting out the council's approach in accordance with legislative and contractual requirements.

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Appendix 1

Implications

Financial

- 1.1 Redundancies and any associated pension strain liabilities can be a significant cost to the Council and will be met from departmental budgets as opposed to general reserves. This will impact on the level of savings and the pay back period achieved by the department. Full consideration of these potential costs should be taken into account at the start of any service review and when proposing any budget savings.

- 1.2 The updates to the Redundancy, Redeployment and Protection of Earnings Policy should contribute to reduced costs in that the amendment to the slotting process criteria may avoid some compulsory redundancies. The reduction of the pay protection period from 2 years to 18 months, and the reduction in the excess travel from 3 years to 18 months, will provide a saving compared to the current policy.

Legal

- 2.1 The Appointments and Conditions of Service Committee approve corporate employment policies, which form the terms and conditions of council employees, other than minor or technical changes to existing policies.

Human Resources

- 3.1 The council has been in consultation with the Joint Trade Unions on the Redundancy, Redeployment and Protection of Earnings Policy since March 2023, as outlined within the report.

- 3.2 Whilst the Joint Trade Unions have been clear they will not support any changes to any policy which they deem to be a detriment to their members

Terms and Conditions we have actively tried to engage the Joint TUs in meaningful consultation with the outcome of reaching an agreement.

- 3.3 Once the policy is approved we will continue to work with the Trade Unions, HR Business Partners and department leads to ensure the policies are implemented effectively.

Information Technology

- 4.1 There are no specific Information Technology requirements identified within the Redundancy, Redeployment and Protection of Earnings Policy.

Equalities Impact

- 5.1 An equality impact analysis report is attached at Appendix 3.

Corporate objectives and priorities for change

- 6.1 This policy aligns with the people priorities outlined within the council's People Strategy and in particular to 'Enable organisational transformation and effective employee relations'.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

- 7.1 There are no other requirements identified within the Redundancy, Redeployment and Protection of Earnings Policy.