

# Restructure and Redundancy Policy

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# **Restructure Policy**

## **1.0 Policy Statement**

1.1 This policy is designed to ensure that City of Wolverhampton Council delivers the highest standard of service with the resource available and that it responds to changing circumstances in an efficient and effective manner, whilst meeting its legal employment obligations.

1.2 The need for change can arise for a variety of reasons, including:

- To deliver savings, as budgets are reallocated, funding ceases or is significantly reduced.
- To improve efficiency, to ensure we meet the Council's strategic objectives.
- The way services are delivered changes.

1.3 The overall aim of this policy is to ensure that:

- Restructures, regardless of size are managed as effectively, fairly and consistently as possible, and in a transparent way across the Council.
- The Council complies with its legal obligations in managing change and all employees are informed of their legal employment entitlements and supported throughout the process.

## **2.0 Scope**

2.1 This policy and procedure applies to all employees of the City of Wolverhampton Council. It excludes NJC employees and Teachers employed by Governing Bodies who are covered by Schools HR Policies. Policies adopted by the City Council may, following discussion with relevant trades unions, also be recommended as good practice models for adoption by maintained school governing bodies.

## **3.0 Principles**

3.1 The policy is based upon principles of delivering restructures/ establishment changes in a fair and equitable manner, with meaningful consultation with all employees affected by the proposed changes.

3.2 The proposed structure will include assimilations (see section 6.1) and ring-fences (see section 6.2) proposals where appropriate. Employees can challenge the proposal and suggest alternatives during the meaningful consultation process. Employees also have the opportunity to formally challenge assimilation and ring-fence proposals through the Ring-fence Challenge Process. All formal challenges will be considered by an independent panel.

3.3 Changes to the establishment within a service area may affect those employees who deliver the service, as some job roles are no longer required as a result of the proposed changes, or employees may need to:

- Undertake different work
- Work different hours

- Work at a higher or lower grade
- Work at a different location

3.4 The Council needs to retain a competent, knowledgeable and skilled workforce to support the delivery of the Council's strategic objectives and mitigate against compulsory redundancies where possible. The organisation will offer voluntary redundancy, bumped redundancy, work trials and redeployment opportunities where available to mitigate compulsory redundancies.

#### **4.0 Roles and Responsibilities**

4.1 Managers will:

- Ensure that this policy is applied within their service area, supported by the Managers Guidance.
- When considering a restructure/ establishment change arrange to meet with their HR Business Partner to discuss proposals.
- Direct any queries on the application or interpretation of this policy to [Human Resources](#) before taking action.
- Consider and apply methods to mitigate compulsory redundancies.

4.2 Human Resources will:

- Provide operational support and advice to managers and the wider organisation to enable the effective management of restructures and redundancy.
- Review and monitor the implementation of the Restructure and Redundancy Policy.
- Ensure the Restructure and Redundancy Policy, guidance and supporting documents are regularly reviewed and updated, in consultation with the recognised Trade Unions.

#### **5.0 Procedures**

5.1 Please see Restructure and Redundancy Managers Guidance for a step by step guide to conducting a restructure.

#### **6.0 Process definitions and overview**

##### **6.1 Assimilation**

Where a service has been restructured and there is a pool of potentially "at risk" employees, assimilation is the process whereby one person is placed into a new job because the new post is either virtually unchanged from, or a very close match to their substantive post.

Factors which are not relevant to assimilation include: any changes to terms and conditions that might be agreed through the normal processes (e.g. changes to shift working or to 5 out of 7 working.)

Where an employee potentially at risk is not assimilated, they will be put at risk, and the appropriate selection procedures will be applied.

Assimilations are determined by the manager, with support from Human Resources, in consultation with the Trade Unions.

## **6.2 Ring-fencing**

The ring-fence matching process determines the closest possible match of current post holders to posts within the proposed structure, with the overarching aim to minimise displacement and uncertainty.

Throughout the ring-fencing matching process, the primary focus is on the post and not the post holder, so no account has been taken of the post holder's personal skills or capabilities.

## **6.3 The Challenge Process**

Should employees wish to challenge the assimilation process or the ring-fence they have been assigned to, they will need to set out in writing the reasons for this by completing the Ring-fence Challenge Form (see Managers Guidance), which should be sent to the appropriate Director. Employees must be given a minimum of 5 working days to challenge the assimilation or ring-fence proposal following formal notification at the group consultation meeting.

Each challenge will be considered by a specially convened Panel who will consider the written submissions received. The panel will consist of the Director, (or nominee) a Human Resource representative and a Trade Union Representative, not previously involved in the restructure.

Please note that the decision of the Panel will be final, and this will be confirmed in writing to the individual in the first instance. Once all individuals have been notified of the outcome of their challenge any resulting changes will be confirmed to affected employees. If the challenge is upheld, then the nature of the change will determine whether consultation is required on the amended proposal.

## **6.4 Competitive selection process**

Following the assimilation and ring-fence process, vacant positions within the new structure will be open to competitive selection process, see managers guide for further information.

## **6.5 Work trials**

An employee who accepts an offer of alternative work is entitled to a trial period of 4 weeks to check that the work is suitable for both the employee and the employer. The trial period may be extended by agreement between employer and employee to re-train for the new work, up to a maximum 12 weeks. Any such agreement must be in writing and agreed with management and Human Resources and Trade Unions consulted as appropriate.

## **7.0 Links to supporting documents**

- 7.1 Restructure and Redundancy Managers Guide
- 7.2 Recruitment and Selection Policy
- 7.3 Redeployment Policy and Procedure
- 7.4 Employee Assistance Programme

## **Redundancy Policy**

### **1.0 Policy Statement**

- 1.1 The Redundancy Policy is designed to ensure that City of Wolverhampton Council adheres to employment rights legislation and mitigates against compulsory redundancies where possible.
- 1.2 Redundancy is a potentially fair reason for dismissing an employee and a redundancy situation can occur when a:
  - Employer ceases to carry out business for the purpose for which the employee was employed.
  - Requirements of the business do not require the existing number of employees to carry out work of a particular kind.
- 1.3 Employees can also put themselves forward for voluntary redundancy during an establishment change process when they are identified as at risk.
- 1.4 The Corporate Voluntary Redundancy Scheme is open to employees who wish to apply for redundancy at any time, except when there is an active restructure in that area of work.

### **2.0 Scope**

- 2.1 This policy and procedure applies to all employees of the City of Wolverhampton Council. It excludes NJC employees and Teachers employed by Governing Bodies who are covered by Schools HR Policies. Policies adopted by the City Council may, following discussion with relevant trades unions, also be recommended as good practice models for adoption by maintained school governing bodies.

### **3.0 Principles**

- 3.1 Meaningful consultation must take place with all employees affected/ 'at risk' of redundancy, see managers guide for further information. The redundancy process must be carried out in a fair and equitable manner, ensuring the Council carries out all legal and statutory obligations in line with employment law guidelines, including statutory notice periods.
- 3.2 The Council will mitigate against compulsory redundancies where possible and if applicable, by offering:
  - Voluntary redundancy
  - Bumped redundancy
  - Redeployment opportunities and work trials

## **4.0 Roles and Responsibilities**

### **4.1 Managers will:**

- Ensure that this policy is applied within their service area, supported by the Managers Guidance.
- When considering establishment changes arrange to meet with their HR Business Partner to discuss proposals.
- Direct any queries on the application or interpretation of this policy to Human Resources before taking action.
- Following consultation and the approval of the new establishment structure, work with Human Resources to implement the structure and ensure we meet our legal obligations, including the statutory notice period and dismissal process.

### **4.2 Human Resources will:**

- Provide operational support and advice to managers and the wider organisation to enable the effective management of establishment changes, including: the consultation process, structure implementation, at risk employees and redundancy/ dismissal process as appropriate.
- Complete the HR1 and for the provision of information required by Section 188 of Trade Union and Labour Relations (Consolidation) Act 1988 (if required).
- Review and monitor the implementation of the Restructure and Redundancy Policy.
- Ensure the Restructure and Redundancy Policy, guidance and supporting documents are regularly reviewed and updated, in consultation with the recognised Trade Unions.

## **5.0 Procedures**

5.1 Please see Restructure and Redundancy Managers Guidance for a step by step guide to conducting an establishment change/ restructure process, which could result in redundancies.

## **6.0 Process definitions and overview**

### **6.1 Collective Consultation**

If an employer is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 45 days or less, it will be under an obligation to consult (discuss) with appropriate representatives. This is known as 'collective consultation'. The duty to consult collectively is in addition to the employer's obligations to consult individually with each of the potentially redundant employees.

The consultation must begin in good time and in any event meet timescales as follows:

- 100+ dismissals - legal requirement 45 days before any dismissal takes place. However, in principle the Council's current position is to work to a 90 day consultation period wherever possible.
- 20-99 dismissals - legal requirement 30 days before dismissals take place. However, in principle the Council's current position is to work to a 45 day consultation period wherever possible.

The City of Wolverhampton Council is obliged to consult with the recognised Trade Union representatives and the affected employees. Consultation must include and be provided in writing:

- Reasons for the proposed redundancies.
- Numbers and descriptions of employees whom it is proposed to dismiss as redundant.
- Total number of employees of any such description at each establishment.
- Proposed method of selection, ringfencing, assimilations etc.
- Proposed method of carrying out dismissals taking account of any agreed procedure, including the period over which the dismissals are to take place.
- Proposed offers of Voluntary Redundancy for those employees at risk.

Consultation must be with a view to reaching an agreement and no dismissals must *take place ahead of the consultation timescales outlined above.*

*Individual consultation (i.e. one to one meetings) should take place after the initial group consultation meeting has been conducted. It is important to consult with all employees who are absent from work for any reason.*

## **6.2 Compulsory redundancy**

Where a role at the City of Wolverhampton Council is no longer required and a suitable employment opportunity is not available, then compulsory redundancy can occur. The Council will mitigate compulsory redundancies where possible by offering: voluntary redundancy, bumped redundancy, work trials and redeployment opportunities.

## **6.3 Voluntary redundancy**

This is where the Council offers a financial incentive to an employee to leave the organisation. This can occur through an establishment change process or via the Council's current Corporate Voluntary Scheme. For further advice, the latest information and an application form please refer to the Voluntary Redundancy Section of the HR intranet. Further information on voluntary redundancy application and approval process is available in the managers guidance.

## **6.4 Bumped redundancy**

A bumped or transferred redundancy occurs when an employee whose job is not at risk of redundancy is dismissed as redundant and the resulting vacancy is filled by a suitable employee whose job is redundant. There is no salary compensation for a bumped redundancy. Employees will be paid the grade for the job that they accept, which must be at the same grade as their current post or lower.

If the manager is unable to identify any opportunities available for a 'bump' in the immediate service area, all bumped roles will be advertised to redeployees. If a bumped redundancy cannot be secured through the service area or redeployment the employee will be unable to exit the organisation on a voluntary redundancy.

### **6.5 Redeployment/ suitable alternative employment**

Employees who are made compulsory redundant are entitled to access redeployment opportunities for the duration of their individual statutory notice period, see Redeployment Policy and Procedure for further information. Redeployment is not open to employees on a single fixed term contract of less than 12 months.

Redeployment is a form of suitable alternative employment to try and mitigate the need for compulsory redundancy. Failure to offer suitable alternative employment opportunities when they are available could make a dismissal unfair.

The availability of suitable alternative employment opportunities through redeployment will be dependent upon the prevailing circumstances within the Council at the time and there is no obligation to create employment opportunities. There is no guarantee that suitable alternative employment opportunities will be available.

If an employee unreasonably refuses an offer of suitable alternative employment, the entitlement to statutory redundancy pay is lost.

Employees on maternity leave, adoption leave, or additional paternity leave have an automatic right to be placed into suitable alternative identified post if available.

### **6.6 Work trials**

An employee who accepts an offer of alternative work is entitled to a trial period of 4 weeks to check that the work is suitable for both the redeployee and the employer. The trial period may be extended by agreement between employer and employee to re-train for the new work, up to a maximum 12 weeks, in extenuating circumstances. Any such agreement must be made before the employee starts the new work and must be in writing. This should be agreed with management and Human Resources and Trade Union as appropriate.

### **6.7 Dismissals Process - compulsory redundancy**

Individual notices of dismissal must not be issued until collective and individual consultation has been completed. The dismissal itself cannot take effect until the minimum period has expired and individual notice periods have been observed. The date the dismissals take effect may therefore also depend upon the period of notice which applies.

Employees are entitled to receive notice in line with their contractual entitlement which is related to length of continuous local government service and subject to the minimum periods as set out in Section 86 of the Employment Rights Act 1986.

Employees are entitled to access redeployment opportunities for the duration of their statutory notice period, in line with the Council's Redeployment Policy. Redeployment is not open to employees on a single fixed term contract of less than 12 months.

Employment can be terminated before the end of the notice period where an employee has agreed to take a payment in lieu of notice (PILON). The Council will only make a payment in lieu of notice (PILON) where there is a clear business case and with Director approval.

### **6.8 Dismissals Process - voluntary redundancy**

An employee whose application for voluntary redundancy is approved will be asked to sign a settlement agreement. This is a legal agreement that safeguards the Council from employees who volunteer for redundancy but then seek to bring an employment tribunal legal case.

Employment can be terminated before the end of the notice period where an employee has agreed to take a payment in lieu of notice (PILON). The Council will only make a payment in lieu of notice (PILON) where there is a clear business case with Director approval, or an employee agrees to waive their notice period.

If an employee chooses to waive their notice period there could be financial implications to this decision, you will need to consult Human Resources to understand the implications.

### **6.9 Structure Management**

During the implementation of the new structure, managers should complete a Structure Management Request (SMR) form. Any posts declared as redundant will be deleted from the establishment and will not be permitted to be re-established.

### **6.10 Redundancy selection appeals procedure**

An employee who is made compulsory redundant will be allowed a right of appeal. If an employee has been selected for redundancy due to being unsuccessful following a competitive selection process, they should initially seek formal feedback from the selection panel. However, this does not remove their right of appeal at the point when they have been advised in writing of the decision to make them redundant and of the right to appeal to an Appeals Panel.

The appeal should be made in writing to the appropriate Director within 5 working days of receipt of the formal notification of redundancy. For more information see the Appeals Manager Guide.

## **7.0 Links to supporting documents**

7.1 Restructure and Redundancy Manager Guide

7.2 Recruitment and Selection Policy

7.3 Redeployment Policy and Procedure

7.4 Employee Assistance Programme

7.5 Appeal Managers Guide