

SPECIAL GENERAL PURPOSES AND LICENSING COMMITTEE: 3 APRIL 2009**A REVIEW OF ORGANISATIONAL CHANGE POLICIES AND PROCEDURES****1. Purpose**

- 1.1 This report reviews the Council's current organisational change policies which will help to support the Medium Term Financial Strategy and the Efficiency and Savings Plan. These policies will take effect on 1 May 2009.
- 1.2 The report also details the proposed policy on early retirement on the grounds of redundancy. This new policy will apply to all business cases signed and agreed from 1 July 2009.

2. Organisational change

- 2.1 The Council is committed to the establishment of effective organisational structures that are flexible and responsive to changing needs.
- 2.2 The Council, in consultation with the Employee Side, will seek to minimize the effect of changes and, wherever possible, reductions in the number of employees will be achieved through natural wastage caused by retirement or resignations.

3. Vacancy management procedure

- 3.1 The Council on 7 January 2009 implemented the new vacancy management procedure. This is the first measure to reduce the Council's headcount. The procedure is detailed below:

In addition to the Head of Service approving all vacancies within their service a business case document is forwarded to EMT for any vacancies that they wish to recruit for. The process is as follows:

- 1. Recruiting Manager completes business case document and forwards to Head of Service.
 - 2. Head of Service reviews business case and either approves or declines vacancy, adding comments as appropriate.
 - 3. All completed business cases are sent to HR (both approvals and declined).
 - 4. Those vacancies that the Head of Service has approved will be forwarded to EMT by HR for final sign off.
 - 5. EMT will consider the business cases on a weekly basis (Tuesday) and more frequently if it becomes necessary.
 - 6. HR will contact the Head of Service with EMT decision as soon as possible after the EMT meeting.
- 3.2 Any new fixed term and casual contracts plus extension of any existing contracts must be approved by the Head of Service – the business case form should be used and copies sent to HR.
 - 3.3 The use of agency workers/consultants should be kept to a minimum and must be approved by Head of Service – the business case form should be used, and copies sent to HR.

4. Age retirement

- 4.1 The Council currently extends employment beyond the age of 65 on request. This policy is being reviewed and it is proposed that all business cases are now approved

by Heads of Service and, only by exception, employees are permitted to work beyond 65 and this will continue to be reviewed on an annual basis.

5. Where employee numbers exceed requirements

- 5.1 Where work is to be reduced or cease due to the termination of a contract or agency agreement by an external client, or the loss of a contract following Competitive Tendering, every effort will be made to obtain agreement to transfer employees to any new contractors or clients in accordance with the provisions of the Transfer of Undertakings (Protection of Employment) Regulations (TUPE).
- 5.2 Where work has reduced due to market conditions, a planned approach to matching resources to workload will take place.
- 5.3 In any changes in employment, wherever possible, practical steps will be taken to avoid redundancies.
- 5.4 There will be early consultation with employee side with a view to reaching agreement on revised structures, methods of working etc and reasonable arrangements to protect employees.
- 5.5 The Council will facilitate redeployment through the Council's 'At Risk' Register and retraining if necessary. The Council will do all it reasonably can to provide job security and, where this is not possible, take account of employees' views and well-being.
- 5.6 Where security of employment is not possible the Council will provide assistance to employees so that, wherever practicable, alternative work opportunities can be considered.
- 5.7 The services of contractors, consultants or agency staff, in areas where alternative employment opportunities would be possible, will be curtailed subject to legal and contractual constraints.
- 5.8 Overtime working will be examined.
- 5.9 Employees in the Service affected will be invited to apply for flexible employment or flexible retirement. Subject to consultation, areas other than those directly affected will also be considered if such action would create employment or redeployment opportunities. It is important to note that an employee has a right to request these flexible options – but the management reserve the right to refuse if the new hours of work or retirement does not meet the needs of the Service.
- 5.10 Opportunities for secondment will be fully examined.
- 5.11 Redundancies will only be progressed as a last resort normally when all of the preceding stages have been completed.

6. Selection of employees for posts in a revised/new organisation structure

6.1 Selection

- 6.1.1 Employees will be selected either for posts in revised structures or for redeployment or re-training opportunities, in accordance with the Council's Recruitment and Selection Management Advice Note, on merit and against consistent and fair criteria.

6.1.2 The method of recruitment and the criteria will be decided in advance and in consultation with the employees and the employee side representative.

6.1.3 The selection criteria could include:-

- operational requirements;
- the need to maintain a competent and balanced workforce; and
- employee's skills, conduct, performance, capability, competence, work attendance and any other factors.

6.1.4 Selection decisions will not be made on the basis of sex, race, colour or ethnic origin, sexual orientation, religion, disability, marital status, or trade union activities.

6.1.5 Decisions on such employment matters will be made jointly by the Head of Service and a member of Human Resources.

Note: - It is good practice to complete a written pro forma as an assessment of employees' skills, performance, conduct and capability, using the criteria so that differences between employees can be satisfactorily identified.

6.1.6 **Ring fencing of employees**

Where seeking to fill vacancies created by a reorganisation, recruitment may be 'ring fenced' to employees in the section being re-organised plus others likely to have appropriate skills or competencies. At this stage employees will not formally be placed on the Council's 'At Risk' Redeployment register.

6.2 **Guidelines on Natural Succession**

Where a job ceases to exist as a result of a reorganisation but a similar job is created utilising the same or virtually the same skills, a 'natural successor' situation may arise. A person will be considered to conform to the natural successor rule when there is a substantial match between their substantive existing job and the new job. An employee who has been "acting up" will be matched on the basis of the substantive job, unless they have been undertaking the acting up for a consecutive 6 months.

6.2.1 **Posts must be looked at in the round in consultation with Human Resources.** There is no precise mathematical calculation to determine whether or not a post is a natural successor or new. If a change merely involves taking on more of the same work that a postholder could reasonably be expected to do, then the post may not be new.

6.2.2 **Slotting in of employees** – where it is clear that the post is a natural successor in consultation with employee side, consideration will be given to 'slotting in' employees to available vacancies.

6.2.3 Criteria to which managers should look to determine whether or not a post is new include:

- a) **The responsibilities of the job:** where a post incorporates new functions that can be said to involve different responsibilities, which may be said to create a new post. Likewise the scale of responsibility involved may be an important consideration.

- b) **The nature of the post:** where a post requires increased, or new, policy involvement that may incline one to the view that it is new.
- c) **Skills/qualifications required for the post:** where a post demands skills/qualifications that the current equivalent post could not be said to require, that may be a new post.
- d) **The salary for the post:** where there is a difference in pay between the current post and the new one that may incline one to the view that it is new.

7. **Redeployment procedure ('At Risk')**

7.1 **Eligibility**

Employees will be eligible to join the redeployment register where they have one year of continuous service and are:

- i) at risk of redundancy;
- ii) unable to continue in their current employment because of ill health and would otherwise be retired or dismissed on grounds of ill health;
- iii) unable to continue in their current employment based on capability or competence;
- iv) unable to continue in their current employment because of a disability;
- v) in a temporary post;
- vi) under a fixed term contract that is over a year and are approaching the end of that contract.

To safeguard the integrity of the process the Head of Human Resources, in consultation with the relevant Service Head, is authorised to exclude from the redeployment register an employee if another route is more appropriate.

7.2 **Period of seeking redeployment**

Except in exceptional circumstances the period for employees to be on the "redeployment register" will be a minimum of one month. This includes eligible temporary employees (e.g. those with at least one year of continuous service). In redundancy terms, employees will be placed on the at risk register at the time they are given notice of dismissal.

7.3 **Assistance to employees**

The line manager and Human Resources will seek to assist the employee on the redeployment register to obtain an alternative post. Employees are expected to co-operate fully and positively and to take all reasonable steps to secure an alternative post. A redundant employee who unreasonably refuses an offer of suitable alternative employment may lose their entitlement to a redundancy payment. (Advice should be sought from Human Resources on reasonableness or suitability).

7.4 **Job Matching**

Under these arrangements Human Resources will compare vacancies with details of employees seeking redeployment to seek a "match". The employee will be asked to detail their skills, knowledge and experience. The pro forma will be kept in Human Resources and will be used to job match.

Job matching is more difficult internally in the current climate, because the pool of vacancies available is limited due to the vacancy management process. It should also be borne in mind that the current job market will make it more difficult for employees to find alternative external employment if they are made redundant. Therefore the Council as a good employer may need to do more in the way of re-training current employees to increase the likelihood of the employee being redeployed within the Council.

The Human Resources service will monitor details of employees on the At Risk register and future/current vacancies. This will be done through:

- vacancy management process
- pending retirements
- resignations as they arise

8. Early Retirement

- 8.1 Early retirement is loss of office before an employee's 65th birthday (normal retirement age). Where the employee is a contributor to the Local Government Pension Scheme (LGPS) pension benefits, including a lump sum, and annual pension may be payable.
- 8.2 Full Council agreed the new flexible retirement policy in July 2008 and it took effect on 1 August 2008. The new LGPS 3 tier ill-health retirement scheme came into effect in July 2008.
- 8.3 The LGPS Regulations entitle an employee who is aged at least 55 (or the age of 50 if they joined the Scheme before 1 April 2008 and retire before 1 April 2010) to the immediate payment of benefits if they are retired on grounds of redundancy, or in the interests of efficiency of the service, or if they retire voluntarily before age 60 and the employer consents to immediate payment of benefits.
- 8.4 All such retirements place a strain on the pension fund so the employer has to make additional payments into the fund.
- 8.5 The LGPS Regulations also permit an employer to augment an employee's period of LGPS membership at any age, which increases their benefits at retirement. This power can be used to 'top up' service, by up to 10 years, or to age 65 if that is less, provided that the employer makes further payments into the fund.
- 8.6 The DCLG introduced a new discretionary power which enables a local authority to give up to two years' pay as lump sum compensation to any employee who leaves on grounds of redundancy or efficiency of the service. It could not be used if LGPS service has been augmented for the same termination of employment.
- 8.7 LGPS membership used to be limited to 40 years. This meant that people who entered at age 18 would have paid for 42 years at age 60 but only get benefits for 40 years. Such employees could be granted a 'contribution holiday' for the period they could not count over 40 years. Changes to the LGPS from 6 April 2006 removed the 40-year limit and ended such holidays. They now count the holidays as periods of membership, which adds to their benefits. The employer now has discretion to recover their 'waived' contributions.
- 8.8 The Council last reviewed its early retirement/redundancy policies in 2006 when the facility to award 'compensatory added years' was removed. It is now timely to review the Council's Early Retirement policy on both redundancy and efficiency.

8.9 Many Hampshire Councils reviewed their redundancy policies in 2008 and removed the discretionary power to augment service as part of redundancy. This was primarily to ensure that all employees who were under or over 55 were treated fairly and to take account that the cost of augmentation was no longer affordable, as this was in addition to the already high costs of releasing employees' pensions early.

8.10 Current policies – early retirement/redundancy

- the pension fund's charge for early retirement must be affordable;
- any redundancy payment will be based on current weekly rates of pay and this will be paid in line with statutory redundancy up to a maximum of 30 weeks;
- augmentation of LGPS membership will be considered in any redundancy or efficiency retirement case up to a maximum of 6 2/3rds, where allowed and achieves a payable period of 5 years;
- other retirements can be approved under joint delegated authority by the Chief Executive or Executive Director in consultation with the Head of Human Resources and an Employee Side representative, including voluntary early retirement, where that is in the Council's interests;
- in the case of employees under the age of 55 (or under the age of 50 if they joined the scheme before 1 April 2008 and retire before 1 April 2010), the Council has continued to use the discretion under the 2000 Regulations to compensate employees up to 66 weeks. All redundancy cases will achieve a payable period of 5 years.

8.11 Proposed policies

It is proposed to vary the existing policies without adding to costs as follows:

- the pension fund's charge for early retirement must be affordable;
- the early retirement case will achieve a payable period of 3 years;
- the discretion to augment LGPS membership will no longer be considered in any redundancy or efficiency retirement cases;
- all redundancy payments will be based on current weekly rates of pay and will be paid up to a maximum of 60 weeks in line with 2x the statutory number of weeks. All redundancy cases will achieve a payable period of 3 years.
- The Chief Executive, Executive Director, in consultation with the Head of Human Resources, and an Employee Side representative can approve other retirements under delegated authority.

8.12 Some variations to the current delegations are recommended to achieve the changes to the existing policies. These are set out in Appendix 1.

9. Financial implications

9.1 The proposed early retirement/redundancy policies will reduce future cost of early retirements.

10. Environmental Implications

10.1 There are no direct environmental implications to this report.

11. Equality and diversity implications

11.1 The proposed redundancy policy ensures, in line with age legislation, that all employees receive redundancy pay based on the same principle.

12. Employee Side comments

12.1 Employee Side are aware that NFDC has always treated its staff fairly and it would be reasonable to state generously when enforcing retirement and redundancy situations.

Employee Side believe that to completely remove the discretion to augment pensions is ill judged. If the NFDC fetter their discretion on augmentation we believe the spirit of the rule is not being complied with as intended.

When using discretion factors such as length of service, salary and age of individual, payback period, employment opportunity and consistency with past practice should be considered.

For an employee to be forced out of his job against his choice, deprived of the opportunity to contribute to a full pension, the future loss of earnings and the current very difficult economic circumstances prevailing making re-employment for over 50s highly unlikely, we believe this is not a good time to completely remove this discretionary element.

Employee Side appreciate that finance is a difficult situation for the Council at this time, but we believe if the payback period can be met, that some consideration could be given to be more flexible regarding augmentation if determined by an agreed criteria of the employee's circumstances.

12.2 Employee side are supportive of any measures which will limit redundancies such as the vacancy management procedure. We believe as a short term measure it is a sustainable practice, but it runs a risk of increasing employee's workloads which could pose problems in the long term. Employee Side has not had involvement in this process, but would like to be informed of jobs that are not being replaced when someone leaves.

12.3 In paragraph 3.2 & 3.3 it is suggested that the use of casual, fixed term employees are to be more closely scrutinised and the use of agency workers kept to a minimum. Employee Side is delighted with these proposals and has always advocated recruitment within the Council to real jobs with a future.

12.4 The Age Discrimination Act 2006 gives individuals the right to apply for a continuation of their job on an annual basis. In paragraph 4.1 it states only by exception will this happen; this comment needs to be clarified to ensure it is not discriminatory.

12.5 Employee Side appreciate all the efforts that will be engaged in paragraph 5 to ensure redundancy is avoided within the workforce.

12.6 In the revised policy it is suggested that redundancy payments will be paid up to 60 weeks as opposed to the maximum 30 weeks currently offered. We welcome this improvement but are unclear on the reasoning which seems to contradict the claim to vary existing policies without adding to the costs.

- 12.7 In paragraph 11.1 it states employees receive redundancy regardless of their age, however the rules on redundancy, vary on age of employee (see below).

Redundancy Payments

The redundancy payment due to each employee under the statutory redundancy payment scheme depends on his or her age and length of service (up to twenty years). This determines the number of weeks pay due, which is then subject to a limit on weekly pay.

To calculate the number of weeks pay due, you should use the following amounts –

- 0.5 week's pay for each full year of service where age during year less than 22,
 - 1.0 week's pay for each full year of service where age during year is 22 or above, but less than 41,
 - 1.5 weeks' pay for each full year of service where age during year is 41+.
- 12.8 Employee Side hope that before these proposals are finalised we will be successful in being able to modify the content.

13. Industrial Relations Committee Comments

- 13.1 The Committee agreed that Employee Side would receive a list of vacant posts that the Council was not currently filling due to the Vacancy Management Process, this information would be shared on a monthly basis.
- 13.2 The Committee also confirmed that the Council would only, by exception, be granting individuals to work past the age of 65, and all requests would be approved by Head of Service and Executive Management Team. It is important that the Council reviews these policies in light of the number of employees within working age who could be displaced as part of the efficiency and savings plan.
- 13.3 The Employee Side did not support the proposed removal of the discretion to augment pension. Mr Cornick asked for it to be recorded that he opposed the proposed early retirement redundancy policy on the basis of the withdrawal of discretion to augment pension.
- 13.4 The recommendations of the report (as detailed below) were agreed:
- (a) That the organisational change policies be supported; and
 - (b) That the proposed early retirement redundancy policies be supported.

14. Recommendations

- 14.1 That it be recommended to the Council that:-
- (a) The organisational change policy as detailed in the report (effective from 1 May 2009) be approved;

- (b) The proposed early retirement/redundancy policy (to be applied to all business cases signed and agreed from 1 July 2009) as detailed in this report be approved; and
- (c) The amendments to the existing delegations as set out in Appendix 1 to this report be approved.

For further information:

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Background Papers

Early Retirement Policies (IRC -7 Dec 2006)

Flexible Retirement (GP&L – 13 June 2008)

DELEGATIONS TO OFFICERS DIRECT FROM COUNCIL

No.	Source	Power Delegated	Delegation To	Minute Ref
16	Local Government Pension Scheme Regulations	To approve redundancies and terminations of employment in the interest of the efficiency of the service for all officers except the Chief Executive, Executive Directors, Monitoring Officer and S.151 Financial Officer (Note: this includes the officers held on the list of officers who are not to be deemed as non-Statutory chief officers) subject to a business case <i>involving payback within 3 years, unless the Chief Executive in consultation with the Leader of the Council and the Finance and Efficiency Portfolio Holder and other relevant portfolio holder(s) agree otherwise.</i>	Chief Executive, or Executive Director, in consultation with Head of Human Resource, and Employees' Side representatives (subject to prior notification to the Leader of the Council for Officers at Deputy Chief Officer and above under Standing Orders for general procedures)	Council 75. of 22/04/02 Council 22. of 21/07/08
17	Local Government Pension Scheme Regulations	To approve the early payment of pensions benefits for redundancies and terminations of employment in the interest of the efficiency of the service for all officers except the Chief Executive, Executive Directors, Monitoring Officer and S.151 Financial Officer (Note: this includes the officers held on the list of officers who are not to be deemed as non-Statutory chief officers) subject to a business case <i>involving payback within 3 years, unless the Chief Executive in consultation with the</i>	Chief Executive, or Executive Director, in consultation with Head of Human Resource, and Employees' Side representatives	Council 75. of 22/04/02 Council 22. of 21/07/08

		Leader of the Council and the Finance and Efficiency Portfolio Holder and other relevant portfolio holder(s) agree otherwise.		
18	Local Government Pension Scheme Regulations 1997	To grant existing employees extra periods of membership of the Local Government Pension Scheme subject to a full business case	Executive Director, in consultation with Head of Human Resources	Council 75. Of 22/04/02
19	Local Government Pension Scheme Regulations 1997	To extend the periods within which a manual worker who returns to Local Government under the terms of Regulation 14 (3) (b) can opt to retain the right to pay contributions at 5%	Executive Director, in consultation with Head of Human Resources	Council 75. Of 22/04/02
21	Local Government Pension Scheme Regulations	To approve the voluntary early retirement of employees aged 50 (from 1st April 2010 this will be 55)- 65 years for all officers except the Chief Executive, Executive Directors, Monitoring Officer and S.151 Financial Officer (Note: this includes the officers held on the list of officers who are not to be deemed as non-Statutory chief officers) subject to a business case involving payback within 3 years, unless the Chief Executive in consultation with the Leader of the Council and the Finance and Efficiency Portfolio Holder and other relevant portfolio holder(s) agree otherwise.	Chief Executive, or Executive Director, in consultation with S151 Officer, Head of Human Resources and Employees' Side representatives (subject to prior notification to the Leader of the Council for Officers at Deputy Chief Officer and above under Standing Orders for general procedures)	Council 75. of 22/04/02 Council 22. of 21/07/08
27		award extra years' service in compensation for loss of office of all staff except the Chief Executive, Directors, Monitoring Officer and S.151 Financial Officer (Note: this includes officers held on the list of officers who are not to	Chief Executive, or Executive Director, in consultation with Head of Human Resources, and Employees' Side representatives	Council 75. of 22/04/02

		be deemed non-statutory officers), subject to a business case		
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Propose additional text is shown ***in bold italics***

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