

EAST HERTS COUNCIL

THE LOCAL JOINT PANEL – 29 NOVEMBER 2006

REPORT BY THE LEADER ON THE FOLLOWING POLICIES AND PROCEDURES:-

- 5(A) (1) POLICY AND PROCEDURE FOR ACHIEVING ORGANISATIONAL CHANGE
(2) REDEPLOYMENT SCHEME

WARD(S) AFFECTED: NONE

'D' RECOMMENDATION That (A) The Policy and Procedure for Achieving Organisational Change be approved and recommended for adoption; and

(B) The Redeployment Scheme be approved and recommended for adoption.

1.0 Purpose/Summary of Report

- 1.1 To introduce a revised policy that ensures the Council complies with its statutory duty on consultation rights in change management scenarios.
- 1.2 To introduce a revised scheme to facilitate the redeployment of displaced staff when they cannot continue in the post to which they were appointed.

2.0 Contribution to the Council's Corporate Objectives

- 2.1 Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.

3.0 Background

- 3.1 The current policy does not comply with employment legislation, does not provide guidance to managers and does not comply with the Council's duty of care towards its employees.

4.0 Report

4.1 The Policy and Procedure for Achieving Organisational Change Appendix A (pages 5.4 to 5.33) has been fully discussed with UNISON, and several changes have been made. The main areas for discussion have been the issues of assimilation and pay protection for staff affected by re-organisation. The wording and process identified in the attached procedure has now been agreed.

4.2 The main area for discussion on the Redeployment Scheme Appendix B (pages 5.34 to 5.47) was the protection afforded to displaced staff who move to a lower graded post. This has now been agreed at 3 years. Maximum levels of protection have been agreed as two grades or the monetary equivalent.

5.0 Consultation

5.1 Following the last LJP on 25th September 2006, Human Resources and Unison have had productive meetings for the sole purpose of considering outstanding points in the policies. We are now able to jointly recommend that the revised policies tabled in this report go forward to the next HR Committee for adoption.

6.0 Legal Implications

6.1 The proposed policies and schemes will comply with the Council's duty as an employer under the latest employment legislation.

7.0 Financial Implications

7.1 The level of benefits will ensure sustainability, and are a reduction on the current levels of protection offered.

7.2 Failure to implement will leave the authority open to challenge. Currently for unfair dismissal, awards may range from £8,400 to £65,200. Additionally, for refusal to comply with a reinstatement order, a further award of between £7,280 and £15,680 can be made. Awards against unlawful discrimination can be unlimited.

8.0 Human Resource Implications

8.1 The Council needs robust employment policies to support our change programme. It is imperative that we have workable procedures to assist us in dealing with displaced staff fairly, while ensuring that our processes are sustainable.

9.0 Risk Management Implications

9.1 Risk of claims for unfair dismissal.

Papers attached

- Policy and Procedure for Achieving Organisational Change
- Redeployment Scheme

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EAST HERTS COUNCIL

**POLICY AND PROCEDURE FOR ACHIEVING
ORGANISATIONAL CHANGE**

OCTOBER 2006

**NB This scheme should be read in conjunction with
The Redeployment Scheme**

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1. Purpose

- 1.1 The Council is committed to being a good employer, as well as a model contractor and client. The people that work in public service are a critical asset, and this is true whether they are employed directly by the Council or by other organisations in partnership with the Council. Without such people it would be impossible to develop modern, high quality, efficient, responsive, and customer-focused public services.
- 1.2 Our approach to delivering services is a pragmatic one, based on finding the best supplier who can deliver high quality services and value for money for those who live or work in East Herts. This may involve some services or functions being provided by, or in partnership with, the private or voluntary sector, or restructured and organised in new ways within the Council.
- 1.3 The Council recognises that it is unlikely to achieve smooth and seamless transition during such organisational change without the involvement, commitment and motivation of its staff.
- 1.4 Clarity and certainty about the treatment of staff is a fundamental requirement and the Council is committed to ensuring that all staff are treated fairly and consistently and that their rights are respected.
- 1.5 We cannot offer our staff a guarantee of a job for life, but we will seek to develop our staff to the maximum of their potential and to retain their skills within East Herts Council wherever possible.
- 1.6 The Council's Policy and Procedure for Achieving Organisational Change has been written to provide a framework within which the Council's changing requirements of the workforce can be managed fairly and equitably.
- 1.7 The procedures contained within this document meet all statutory requirements and comply with ACAS guidelines.

2. Principles of the Procedure

- 2.1 This procedure provides guidance on managing reorganisations with East Herts Council so that staff are treated fairly, consistently and lawfully.
- 2.2 The Council will strive to avoid redundancies and will always consider alternative options to achieve its objectives.
- 2.3 The Council will always consult the recognised trade union and affected staff before declaring redundancies.
- 2.4 This procedure gives staff the right of appeal against redundancy.
- 2.5 Where redundancy is unavoidable the member(s) of staff affected will be offered assistance through the Council's Employee Assistance Programme to support them through the process.

3. Scope of the Procedure

- 3.1 The procedure does not apply to employees at chief officer level and above.
- 3.2 The parts of this procedure that specifically relate to redundancy can only be used in circumstances where a redundancy situation exists. Redundancy is defined in legislation as follows:

- i. The employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was so employed;

Or

- ii. The employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed;

Or

iii. The requirements of the business for employees to carry out work of a particular kind has ceased or diminished or are expected to cease or diminish;

Or

iv. The requirements of the business for the employees to carry out work of a particular kind, in the place where they were so employed, has ceased or diminished or are expected to cease or diminish.

3.3 For issues relating to performance or attendance the Capability Procedure should be used. For issues relating to conduct the Disciplinary Procedure should be used.

3.4 The procedure will not apply where an employee's services are terminated in the following situations:

i. At the end of a pre-determined limited or fixed term contract where the employee has less than two years continuous employment.

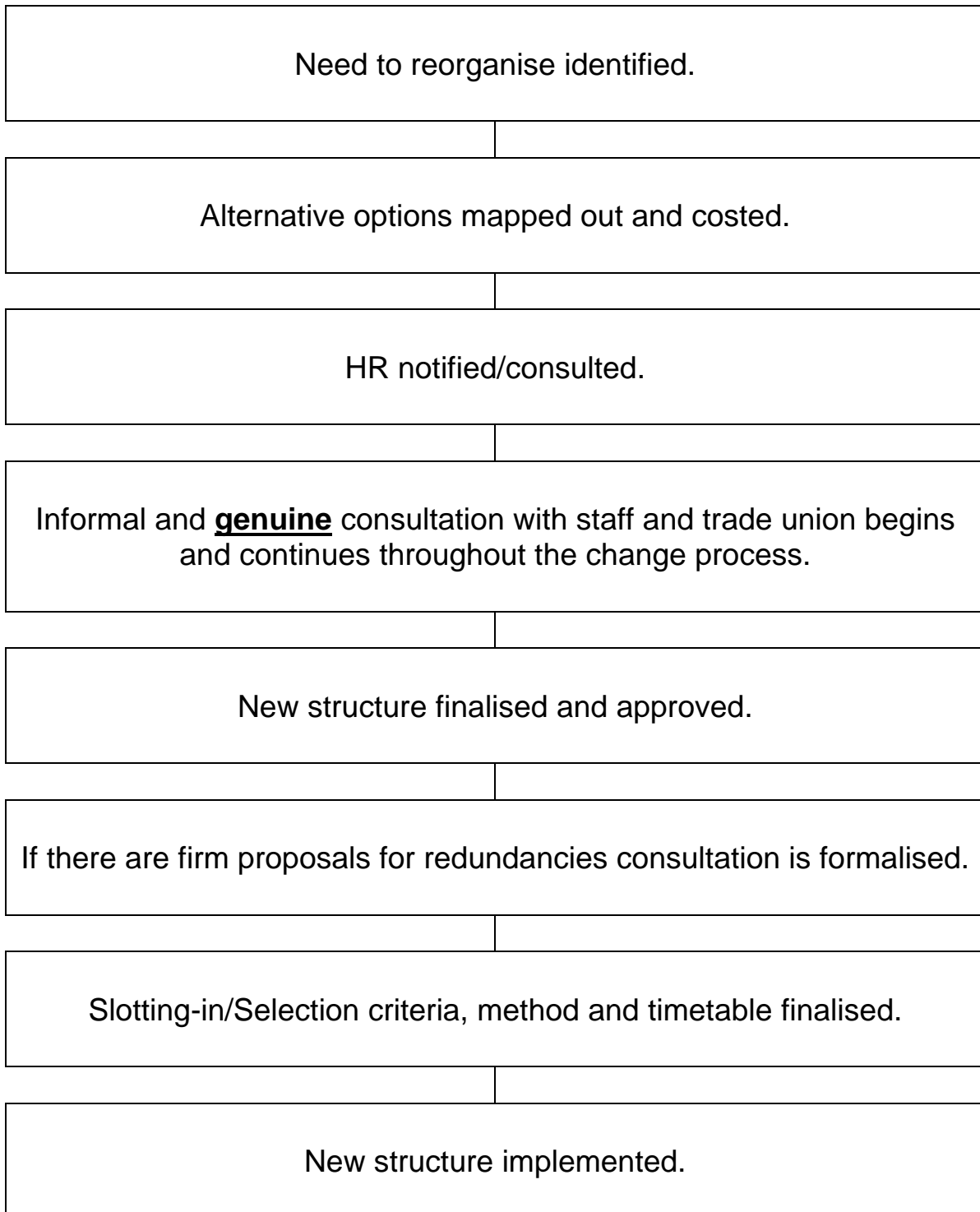
ii. Retirement.

iii. Contravention of an enactment (e.g. where an employee who requires a work permit does not have one).

3.5 Employment legislation places very clear obligations on employers to consult staff and recognised trade unions; Notice of Redundancy cannot be issued without meaningful consultation having taken place. (See Section 8, below)

4. An Overview

4.1 No two restructurings will follow exactly the same process or timetable, but the following flowchart shows the key stages:



4.2 A more detailed outline of the stages and likely timescale for a restructuring are set out in the form of a management planning tool at Appendix 1.

5. Identifying the Need to Reorganise

5.1 Managers should inform staff early about the need to restructure; they need to be clear about the reasons for restructuring and should communicate this clearly and consistently to staff. This is effective change-management practice as well as sound procedure for managing reductions in the workforce.

6. Exploring Options and Initial Consultation

6.1 Having established that a restructure is required, managers next need to consider the option/s open to them to meet the needs of their service and how they might be implemented. This will include an early consideration of how redundancies might be avoided, by, for example, natural wastage.

6.2 Advice from Human Resources should be obtained at this stage.

6.3 HR will advise and support managers throughout the process, but the extent of support will depend on resources. Where new job descriptions are required, for example, these will need to be drafted by managers, with support and advice from HR, if required.

6.4 The reorganisation proposals will need to be costed. This will include getting estimates of possible redundancy costs from Payroll.

6.5 Staff will be kept informed throughout this process, and individual members of staff who could be affected significantly should be spoken to on a one-to-one basis.

6.6 Informal consultations should also be opened with Unison as soon as options for reorganisation have been developed. This is best done by calling a meeting with Unison Representatives

to explain the rationale and put forward the options for consultation.

6.7 Whilst the primary focus of these consultations will be the options for the new structure, if it seems likely that redundancies could be necessary, they should also begin to explore ways of avoiding redundancies and the options for selecting staff for redundancy.

6.8 There is no timescale laid down for these consultations, but they must be genuine – there must be some prospect that they can affect the final proposals. Alternative proposals put forward by staff or the trade union must be taken seriously and reasons given if they are rejected.

7. Obtaining Formal Approval for Proposals

7.1 Once the proposals for restructuring have been finalised a report should be submitted for approval in principle by the Corporate Management Team.

7.2 A copy of the report will be given to Unison and the affected staff before it goes to CMT so that they may comment on its proposals.

8. Consultation

8.1 There is a legal requirement to consult the recognised trade union (UNISON) and individual members of staff on redundancies before the first redundancy notice is issued.

8.2 Whilst informal consultation will have started as soon as redundancies were a possibility (see paragraph 6.6 above), formal consultation must start at the point that redundancies are formally proposed.

8.3 The statutory consultation period where between 20 – 99 staff are to be dismissed on the grounds of redundancy is at least 30 days. The 30 day consultation period must end before the first redundancy notice is issued. (NB for 100 staff or more the consultation period must be at least 90 days)

8.4 Whilst the statutory requirement to commence formal consultation at least 30 days before the first redundancy notice is issued only applies if 20 or more staff are to be made redundant, there is a statutory requirement on employers to act reasonably if fewer than 20 staff are to be made redundant. In such cases the Council will therefore strive to commence formal consultation at least 30 days before the first redundancy notice is issued.

8.5 Formal consultation starts with Unison being invited to a meeting and being given the following information in writing:

- i. The reason for the proposed redundancies.
- ii. The number of posts affected and the likely number of redundancies.
- iii. The total number of similar posts within the Authority.
- iv. The selection criteria for redundancy.
- v. The proposed method of carrying out the dismissals having regard to the agreed procedure including the period over which the dismissals are to take effect.
- vi. The method of calculating the redundancy payments for dismissed employees.

HR will advise on the drafting of the letter commencing formal consultations and setting out the required information.

8.6 Formal consultation must cover:

- i. Avoiding the dismissals
- ii. Reducing the numbers of employees to be dismissed
- iii. Mitigating the consequences of the dismissals
- iv. Selection criteria and method (this will include any “ring-fence” arrangements – see paragraph 9.8 below)

8.7 The initial meeting with Unison representatives will be followed by one-to-one meetings with individual members of staff who are more adversely affected by the proposals (Unison representatives will then be on hand to support those staff if needed) and a meeting with all staff to tell them about the proposals, which the Unison representatives may also

attend. HR will support managers at these meetings and be available to advise staff on the process.

8.8 At this point affected staff should be given a letter explaining that their current post is being deleted and that they are at risk of redundancy. Template letters are set out at Appendix 2. Payroll will be asked to provide estimates of likely severance benefits for staff who have been told that they are at risk of redundancy.

8.9 Further consultation meetings with Unison representatives will be held as necessary.

9. Appointing Staff to the New Structure and Selection for Redundancy

9.1 The process of appointing staff to the new structure results in those staff not being appointed being selected for redundancy.

9.2 In all cases the Council will follow the principle that the staff appointed to the new structure will be those that have the most appropriate combination of knowledge, skills and experience to make an effective contribution.

- i. If jobs in the new structure are similar to jobs in the old structure and there are sufficient jobs in the new structure for all existing members of staff, staff may simply be assimilated into the new posts. When considering assimilation the manager will need to consider:-
 - a. Similarity of tasks carried out (this may be different to the employees job specification);
 - b. Transferable skills.
- ii. If there are fewer jobs in the new structure, there will have to be a selection process.
- iii. If the jobs in the new structure are significantly different to the jobs in the old structure, such that it cannot be assumed that all existing staff will have the necessary knowledge, skills and experience to do the new jobs, there will have to be a selection process.

- 9.3 Part of the consultation process will include deciding if it is appropriate to ask staff if they want to volunteer for redundancy. When making this decision the points to consider are:-
- Is the manager seeking a reduction in the number of staff;
 - Retention of skills to deliver services;
 - Organisational priorities (and the skills that are needed to deliver these)
 - Cost of redundancy versus redeployment.
- 9.4 Staff who may be interested in applying for voluntary redundancy will be given an estimate of their likely severance benefits on receipt of a written request. Applications for voluntary redundancy will only be approved if it is considered to be in the Council's interest. There will be no right of appeal against a decision not to grant an application for voluntary redundancy.
- 9.5 Selection may be done in one of three ways:
- i. Through a recruitment process, with staff being formally assessed for the new posts (e.g. interviews, assessment centres) and the best candidates being appointed.
 - ii. Through management selection, based on an assessment of past performance.
 - iii. A combination of i. and ii. Above.
- 9.6 In either case the following criteria will be considered:
- i. Skills
 - ii. Experience
 - iii. Work performance
 - iv. Aptitude for work
 - v. Disciplinary record
 - vi. Attendance record
- 9.7 Both selection methods i. and ii. have advantages and disadvantages:

- i. The recruitment approach gives management clear information from the interview on which to base their decisions. On the other hand, staff are frequently distrustful of such processes, believing they know who are going to get the jobs anyway and it may seem perverse to base such decisions on a relatively short interview when the organisation may have in-depth knowledge of staff gained over several years.
- ii. Management selection places a greater onus on management to justify their decisions and to produce the evidence to support them. On the other hand, it is honest about management's perceptions and, for that reason, may be welcomed by staff as more transparent and accountable.

9.8 This policy does not favour either method over the other. Staff will always be consulted about their preferences and management will only go against staff preferences if there are clear organisational reasons for doing so.

9.9 It is also likely that as part of the selection process it will be necessary to specify which posts particular staff may be considered for. This is known as a "ring-fence". Whilst staff and the trade union will be consulted about the ring-fence the final decision about how the ring-fence will be drawn will be a management decision. HR must be approached for advice on drawing the ring-fence.

9.10 Care must be taken in choosing the selection criteria and methodology so that it is fair and reasonable in each particular case. HR will advise on options for selection criteria and methodology to ensure that the process adopted meets the needs of the organisation, ensures that a balanced workforce is retained to meet future needs and that there is no discrimination on the grounds of race, sex, disability, sexual orientation, religion or belief or age.

9.11 Staff may be offered lower graded jobs in the new structure or elsewhere in the organisation. In such circumstances it will be for the employee to decide whether or not they wish to accept

the post. (See also Salary Protection arrangements as set out in the Redeployment Procedure.)

9.12 Staff will be told the outcome of the selection process in writing. For staff who are not being offered a position in the new structure, the statutory, three stage dismissal procedure will be invoked:

- i. The letter informing them of the outcome of the selection process will state the intention to dismiss them on the grounds of redundancy and invite the employee to a meeting to discuss the matter.
- ii. At the meeting, the line manager will confirm the intention to dismiss the employee on the grounds of redundancy and invite the employee to respond, stating any reasons why they feel that the dismissal should not proceed.
- iii. The outcome of the meeting will be confirmed in writing and the employee told how to exercise their right of appeal.
- iv. Appeals will be heard.

Staff will not be confirmed in posts and notices of dismissal will not be sent until all appeals have been dealt with.

N.B. It is important that appeals are dealt with without undue delay. To ensure that this happens, the timetable for implementing the restructuring, including the timetable for appeals and the availability of all those necessary for appeals to be heard will be arranged early in the restructuring process.

10. Appeals

10.1 Staff may appeal against redundancy/non-assimilation on the following grounds:

- i. Their post is not redundant;
- ii. They believe they should have been assimilated into a new post;

Or

- iii. That the selection criteria were unfairly applied.

- 10.2 Appeals will be heard by the Chief Executive within three weeks of staff being told the outcome of the selection process in writing.
- 10.3 Staff who wish to appeal must register their intention in writing to the Chief Executive within 3 working days of receiving the letter advising them of the outcome of the selection process. The Chief Executive will acknowledge receipt of the registration of appeal in writing and, at the same time, advise the appellant of the date and time of their appeal hearing.
- 10.4 Within a further 5 working days they must submit a written statement of the grounds for their appeal, along with copies of any documentary evidence they wish to refer to in support of their appeal. A copy of the statement and any documentary evidence will be given to the Service Director.
- 10.5 Within a further 3 working days the Service Director will submit a written response to the statement of appeal, again with any documentary evidence. Copies will be given to the appellant.
- 10.6 The procedure to be followed at appeal hearings is set out in Appendix 3.
- 10.7 If the appeal is on the ground of non-assimilation, the employee needs to identify which post/s it would have been appropriate to assimilate him/her into and why, setting the similarity of tasks carried out (this may be different to the employees job specification) and any transferable skills not already identified.
- 10.8 If the appeal is on the grounds that the selection criteria were unfairly applied the appeal hearing will have available anonymised information on the assessment of the other candidates within the ring-fence, which the Chief Executive will take due consideration of when reaching her decision. This information will be made available to both sides at least 3 working days before the appeal hearing and both sides will be invited to comment on how the appeal might impact on other staff.

10.9 If an appeal on the grounds that the selection criteria were incorrectly applied is successful the member of staff who is selected for redundancy in their stead will have a right of appeal, which they must register within three working days of receiving written confirmation that they have been selected for redundancy.

11. Notice Periods

11.1 Following the appeal hearings, if any, dismissal notices will be issued to staff who have been selected or volunteered for redundancy.

11.2 Staff who are made compulsorily redundant will be given a minimum of 12 weeks notice of termination of employment, regardless of their actual statutory or contractual entitlement to enable them to make full use of the Redeployment Procedure and identify alternative employment within the Council. (N.B. If the member of staff has a contractual entitlement to more than 12 weeks notice they will receive their contractual entitlement.)

Redeployment, Counter Notice, Trial Period and other Considerations during Period of Notice

12. Redeployment

12.1 Full details of the application of the Redeployment Procedure to staff under notice of redundancy are set out in the Redeployment Policy. The outline of the process set out below neither supersedes, nor shall be interpreted as contradicting the provisions of the Policy.

12.2 There is no entitlement in the procedure for staff to be offered a minimum number of redeployment opportunities. If suitable jobs become available during their period of notice, staff will be considered for them.

12.3 All vacancies will be offered to staff under notice prior to being advertised externally.

12.4 If a vacancy arises which is similar in status, of the same grade or slightly higher, at the same work place and where the skills required broadly match, HR will arrange for the employee and recruiting manager to meet to discuss suitability. Staff may also request to be considered for lower graded vacant posts.

13. Counter Notice

13.1 If an employee finds employment with another employer during their notice period they may wish to terminate their contract earlier than the date on which their notice will expire. To do this they have to give East Herts written notice to terminate the contract early; this is known as "Counter Notice".

13.2 East Herts Council will, in the majority of cases, agree to such requests. There are, however, some specific employment law considerations that will need to be taken into account and managers who receive a written counter notice must contact HR for advice.

14. Trial Period

14.1 Staff under notice of redundancy have a statutory entitlement to a four-week trial period in a job offered as suitable alternative employment. The trial period allows both the employee and the employer to assess the suitability of the offer of alternative employment.

14.2 The statutory four-week trial period may be extended only for the purpose of training the employee to do the job and the length of the trial period must be determined at the outset. **The Trial Period cannot be extended once it has been started, for whatever reason.**

14.3 The trial period can last beyond the date of dismissal and, if a suitable vacancy is identified very near the dismissal date, the trial period can start after the old contract has ended.

14.4 A template letter setting out the details of the post, the trial period and if the job is seen to be reasonable alternative employment is included in Appendix 2.

15. Time Off to Look for New Work or for Training

15.1 Managers must allow their staff a reasonable amount of time off to look for new employment or for training during the notice period. Requests for time off will have to be assessed on a case by case basis but some latitude should be extended to this group of staff during what is a very difficult period. HR will advise.

15.2 The sort of activities for which requests for time off will receive favourable consideration will include:

- i. Completing an application form
- ii. Attending career counselling
- iii. Registering with employment agencies
- iv. Conducting internet searches at work
- v. Attending interviews.

This is not an exhaustive list.

Key Steps in Organisational Change

The following table sets out the possible actions in implementing organisational change. Not all change initiatives will involve all of the steps and larger restructurings will inevitably take longer to take through them. A major restructuring could easily take over 6 months to implement. Thinking through how your change initiative is likely to proceed will allow you to plot the likely time-line.

Key Action	Associated Actions	Likely Timescale
Need to restructure identified and alternative options developed.	<ul style="list-style-type: none"> • Identify objectives of new structure. • Scope duties of individual posts • Identify likely grades • Identify whether redundancies may be necessary • Discuss options and likely costs with Group Accountant • Discuss potential redundancy costs with HR/Payroll • Discuss with HR when and how staff should be told that management are reviewing the structure • Determine whether any individual members of staff may be significantly affected and whether they should be seen at 1-to-1 meetings 	1 week to 1 month
Notify/consult HR	<p>This may have been started at the previous stage – but needs to go further. HR will need to:</p> <ul style="list-style-type: none"> • Confirm the extent of any possible redundancies and advise on any legal requirements. • Review draft job descriptions and person specifications. • Do indicative JE's to ensure that grades being sought reflect duties • Outline possible approaches to consultation and agree consultation strategy with the manager • Identify any potential problems with consultation (e.g. staff on maternity leave) and identify how they will be addressed. • Discuss options for selection criteria and processes – whilst these will be subject to 	2 weeks to 1 month

Appendix 1

Key Action	Associated Actions	Likely Timescale
	<p>consultation with staff and the trade union at a later stage, it is important for management to be clear about their preferences and the reasons for those preferences early in the process</p> <ul style="list-style-type: none"> • If management selection is the preferred option confirm the availability and quality of management information on which to base decisions 	
Commence informal consultation with staff and TU.	<p>Again, important to discuss options with HR.</p> <ul style="list-style-type: none"> • Identify appropriate TU representatives - consult with Branch Secretary on whether there are TU reps in the service who will lead or whether branch officials will be taking a lead role. • Formally invite TU reps to meeting – telling them what it will be about and that you will be speaking to the staff immediately afterwards. • Arrange staff meetings. • Decide how to accommodate staff who are not at work or cannot be released from work to attend the meeting 	1 to 2 weeks
New structure finalised and approved	<ul style="list-style-type: none"> • Write report for CMT identifying reasons for change, proposals and costs. • Send copy of report to TU on good time to allow them to comment • CMT consider and approve 	1 week
Start formal consultation	<ul style="list-style-type: none"> • Consult with HR on the letter formally starting the consultation process. • Set a date for the first meeting – tie in with 1-to-1 meetings with affected staff and general staff meeting immediately following TU meeting • Send “at risk” letters to staff potentially facing redundancy. • Agree likely timetable for consultation with HR and include HR in the consultative process. • Invite TU reps to further consultative meetings – number of meetings will vary depending on the nature and effects of the restructuring – if redundancies involved will need more than one. • Work out likely timetable for the selection process and, if redundancies seem likely, any appeals. 	2 to 6 weeks

Appendix 1

Key Action	Associated Actions	Likely Timescale
	<ul style="list-style-type: none"> • Consult those needed for the selection process and appeals to ensure their availability • Keep key players informed throughout the process. • Ensure that all suggestions from staff and TU are responded to with explanations if rejected 	
Finalise selection criteria and method	<ul style="list-style-type: none"> • If voluntary redundancy is part of package, invite volunteers • Fix dates for selection panels or interviews and possible appeals, ensure that key players are available, book accommodation • Decide on ring-fence arrangements. • Ensure that all staff are aware of how the selection process will operate, what the timetable is and if they need to do anything to ensure that they are considered 	1 week
Implement new structure	<ul style="list-style-type: none"> • Make selection decisions • Decide how you will manage the crossover period • Tell staff in writing • Invite unsuccessful staff to meetings to discuss their potential dismissal • Hold meetings with staff and advise them of the outcome in writing, including rights of appeal • If appeals are received, advise HR and CE and comply with requirements for exchange of documentation before appeal hearing • Once all appeals have been heard, confirm final decisions in writing, giving notice of termination to unsuccessful staff • Determine what action is necessary to ensure that all staff are aware of their new roles in the new organisation. • Consider team-building and training initiatives necessary to maximise the potential for successful change. 	1 to 2 months

Template Letters

Template Letter 1	Letter to employee at risk of redundancy
Template Letter 2	Letter to staff consulting on selection methodology
Template Letter 3	Letter to employee on the outcome of the selection process – intention to dismiss
Template Letter 4	Letter to employee on the outcome of the selection process – intention to offer position in new structure
Template Letter 5	Letter to employee on the outcome of the dismissal meeting
Template Letter 6	Letter to employee on the outcome of appeal – notice of dismissal

Template Letter 1

First Formal Notification to an Employee That He/She is at Risk of Redundancy

***N.B.** This letter should not be sent to staff “cold”. There should at least be a meeting with the staff as a group advising them that the restructuring proposals have been approved and what the consequences of that decision might be. If particular individuals are clearly going to be significantly affected they should be seen on a one-to-one basis before being given this letter, which may be handed to them at the conclusion of the one-to-one meeting.*

Dear _____,

Restructuring of *** Service: Potential Risk of Redundancy**

You will be aware from the staff meetings held on ***** and my one-to-one meeting with you on ***** that proposals have been developed for restructuring the ***** Service.

Following consultations with staff and with Unison, formal proposals were considered and approved by the Corporate Management Team on *****.

This decision means that you are at risk of being given notice of termination of employment on the grounds of redundancy. I have asked Payroll to produce an estimate of your likely severance benefits and I will forward these to you as soon as I have them.

Our consultations with staff and Unison will continue and become more formal now. They will focus on how the restructuring proposals will be implemented and in particular:

- How redundancies might be avoided.
- If that isn't possible, how the number of redundancies might be reduced
- How the consequences of redundancy for individuals might be mitigated
- What selection criteria and methods might be appropriate.

Please note that no firm decision has yet been taken on your personal position. You will be kept fully informed and consulted as the situation unfolds.

APPENDIX 2

If you would like a meeting with me to discuss matters please *(insert how meeting may be arranged)*. You may bring a Union representative or colleague to this meeting if you so wish.

Template Letter 2

Letter to Staff Consulting on Selection Methodology

N.B. This letter is only sent to those staff who will be included in any selection process. These staff will have been sent Template Letter 1; First Formal Notification to an Employee That He/She is at Risk of Redundancy.

Dear _____,

Restructuring of *** Service: Selecting Staff for Appointment to the New Structure.**

Further to my letter of (*date of Template Letter 1*), we now need to decide how to select those staff who will be offered jobs in the new structure. Those staff who are not offered jobs in the new structure will be given notice of termination of employment on the grounds of redundancy.

Before setting out the options on how the selection might be done, I need to make it clear that the jobs in the new structure all have job descriptions and person specifications and that, whatever method is adopted, decisions will be based on who best meets the criteria set out in the person specification.

The selection process may be by interview or by management selection:

- i. We could interview staff just as if we were recruiting in the normal way and appoint those staff who demonstrate at the interview that they best meet the selection criteria in the person specification.
- ii. Management could use its knowledge of the strengths and weaknesses of staff and the information that it has from the PDRS to make decisions. Line managers would be required to submit a written assessment, which the staff concerned would be able to see and comment on.

In either case the decisions would be made by a panel made up of (*insert names*). We have been consulting Unison on both these options; this is your chance to have your say. I would be grateful if you could return the enclosed voting slip indicating your preferred selection method.

I can't guarantee that the most popular option will be adopted, but the Council's policy is that management will only go against staff preferences if there are clear organisational reasons for doing so. You will be told the outcome of this consultation exercise and the reasons for choosing the selection method decided upon.

Template Letter 3

Outcome of Selection Process – Intention to Dismiss

Dear _____,

Outcome of Selection Process for Jobs in the New *** Structure**

Either

I refer to your recent interview for the post of ***** in the new ***** Service Structure

Or

The management panel have decided who should be appointed to the post(s) of ***** in the new ***** Service structure
.....and I have to tell you that you we do not intend to offer you a position.

This means that you have been selected for redundancy and it is my intention to give you notice of termination of employment on the grounds of redundancy. You are invited to a meeting at ***** at ***** on ***** to discuss the reasons for this decision. I will be accompanied at the meeting by (*HR Officer*) and you may be accompanied by a trade union representative or a friend. Following that meeting I will decide whether to proceed to give you notice of termination of employment on the grounds of redundancy.

You will have the right of appeal against a decision to dismiss you on the grounds of redundancy. I will give you details of how you may exercise that right at the meeting.

I appreciate that this will be a difficult time for you and know that I can rely on you to behave in a professional manner and ensure to the best of your ability that our services are maintained. (*N.B. Managers might want to consider alternative forms of words that are more personal to encourage the member of staff to behave appropriately.*)

Template Letter 4

Outcome of Selection Process – Intention to Offer Position in New Structure

Dear _____,

Outcome of Selection Process for Jobs in the New ***** Structure

I refer to your recent interview for the post of ***** in the new ***** Service Structure

Or

The management panel have decided who should be appointed to the post(s) of ***** in the new ***** Service structure

.....and I am pleased to tell you that we intend to offer you a position.

However, there are other members of staff who are not likely to be offered positions in the new structure and they have rights of appeal against dismissal on the grounds of redundancy. I am not able to make firm offers of jobs in the new structure until I know whether people want to exercise their right of appeal and, if they do so, what the outcomes of those appeals are.

I appreciate that this continued uncertainty is distracting and unsettling, but I know that I can rely on your professionalism to ensure that our services are maintained through this difficult period. *(N.B. Managers may want to consider a more personal form of words.)*

Template Letter 5

Outcome of Dismissal Meeting

N.B. This letter is sent to staff following the meeting referred to in Template Letter 3.

Dear _____,

Meeting Held on

I confirm the outcome of our meeting on _____, also attended by _____, that

Either

I have not changed my intention to give you notice of termination of employment on the grounds of redundancy.

Or

I no longer intend to give you notice of termination of employment on the grounds of redundancy.

If intending to proceed with dismissal:

You have the right of appeal against my decision. Your appeal must be based on one or both of the following grounds:

That you should have been assimilated;

That your post is not redundant,

or

That the selection criteria were unfairly applied.

If you wish to appeal you must register your intention to do so in writing to the Chief Executive within 3 working days of receiving this letter. You have the right to be accompanied to this meeting by a union representative or colleague if you so wish.

I enclose a copy of the Council's Redundancy Policy, which sets out how appeals are dealt with.

If not intending to proceed with dismissal:

I now intend to offer you the position of _____ in the new _____ Service structure.

As you will appreciate, there are other members of staff who are not likely to be offered positions in the new structure and they have rights of appeal against dismissal on the grounds of redundancy. I am not able to make firm offers of jobs in the new structure until I know whether people want to exercise their right of appeal and, if they do so, what the outcomes of those appeals are.

Template Letter 6

Outcome of Appeal – Notice of Dismissal

Dear _____,

Appeal Against Dismissal on the Grounds of Redundancy

I refer to your Appeal Hearing on ***** and confirm the decision not to change the intention to give you notice of dismissal from the Council's service on the grounds of redundancy.

In accordance with the Council's Redundancy Policy I therefore give you 12 weeks' notice of termination of employment on the grounds of redundancy. Your last day of service will be *****.

The Council will make every effort to find you suitable alternative employment and to this end a member of the HR staff will be contacting you very shortly to discuss what sort of alternative employment you may be interested in and to compile a skills inventory.

You will be written to separately with full details of the Council's Redeployment Scheme, but, in essence, you will automatically be considered for any suitable vacancies before they are advertised. If we are able to find you suitable alternative employment before ***** (*last day of service*) your notice of dismissal will be withdrawn.

Also, you are entitled to reasonable time off work during your notice period for the purpose of seeking new employment or to undergo training to improve your chances of finding new employment. If you wish to take up this facility you should approach your line manager with details of what time off you would like and how you intend to use it.

Details of Outplacement support/EAP support.

Procedure for Hearing Appeals Against Redundancy

1. Appeals against redundancy or non assimilation will be heard by the Chief Executive, or her nominated deputy.
2. The Chief Executive (or her nominated Deputy) will be accompanied and supported by an HR Officer.
3. The Appellant may be accompanied and supported by a trade union representative, or friend.
4. The manager responding to the appeal may be accompanied and supported by an HR Officer, who shall act independently of the officer advising the Chief Executive.
5. A note-taker will take the minutes.
6. The Chief Executive will ensure that all of the parties have the documentary submissions and will confirm the grounds of appeal.
7. The appellant will present their case, producing evidence and calling witnesses as they see fit.
8. If witnesses are called they will be questioned
 - i. by the appellant, or their representative;
 - ii. by the respondent manager;
 - iii. by the Chief Executive.

The HR Officer supporting the Chief Executive will be given the opportunity to ask questions of clarification.

9. When the appellant has finished presenting their case they may be questioned by the respondent manager and the Chief Executive. The HR Officer supporting the Chief Executive will be given the opportunity to ask questions of clarification.
 10. The respondent manager will present their case, again producing evidence and calling witnesses if they see fit. Witnesses will be questioned by the respondent manager, the appellant (or their representative) and the Chief Executive. The HR Officer supporting the Chief Executive will be given the opportunity to ask questions of clarification.
 11. Both sides will sum up before leaving the hearing whilst the Chief Executive makes her decision.
- N.B.** Where the appeal is based on the grounds that the selection criteria have not been applied fairly, the appeal hearing will have available anonymised information on the assessment of the other

candidates within the ring-fence, which the Chief Executive will take due consideration of when reaching her decision.



EAST HERTS COUNCIL
REDEPLOYMENT SCHEME

October 2006

**NB This scheme should be read in conjunction with
The Policy and Procedure for Achieving Organisational Change**

or

**The Absence Management Policy and Procedure &
Employing & Retaining People with Disabilities Policy and
Procedure**

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1. Purpose

- 1.1 The Council is committed to being a good employer. The people that work in public service are a vital asset.
- 1.2 Nevertheless, there will inevitably be situations where the needs of the Council for particular jobs to be carried out in a particular way will change and other circumstances where the ability of staff to continue working as they have been working will change.
- 1.3 We cannot offer our staff a guarantee of a job for life, but we will seek to develop our staff to the maximum of their potential, to avoid compulsory redundancies wherever possible and to retain their skills within East Herts Council.
- 1.4 We believe this approach to be in the best interest of our staff, by offering security of their employment with East Herts wherever possible and maximising their ability to compete for jobs elsewhere.
- 1.5 We believe it to be in the best interest of East Herts by helping us retain the skills and experience of staff that we have invested in and minimising unnecessary recruitment costs.
- 1.6 This procedure has been established to provide a mechanism for redeploying staff into alternative jobs where this becomes necessary due to:
 - i. Disability,
 - ii. Redundancy,
 - iii. Illness,
 - iv. Capability, or
 - v. Other circumstances where, in agreement of the member of staff concerned, the Council feels that redeployment is the appropriate response.
- 1.7 The procedure takes account of ACAS guidance, the Councils obligations under the Disability Discrimination Act 1995, the Sex Discrimination Act 1975, Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and the Employment Rights Act 1996.

2. Scope of the Procedure

- 2.1 This procedure applies to all employees (part time, full time and fixed term) of East Herts Council, including officers employed on JNC Conditions of Services for Chief Officers and Chief Executives.

- 2.2 Employees with less than 12 months service will not be entitled to redeployment under the provisions of this procedure, except as detailed in paragraph 2.3 below.
- 2.3 Employees who are covered by maternity regulations and employees who become disabled in service will be entitled to seek redeployment under this procedure regardless of length of service.

3. Principles of the Procedure

- 3.1 An effective mechanism for redeployment is an important contribution to the Council's duty to treat its staff fairly. It is important that managers, unions, employees, their representatives and Human Resources work together collaboratively to effect successful redeployment.
- 3.2 Staff will only be admitted to the redeployment scheme when they have been given notice of termination of employment, except in the case of employees who become disabled. The Council will continue its attempts to find suitable redeployment for the employee throughout the period of notice. There is no entitlement to a minimum or maximum number of offers of redeployment: if suitable jobs become available, staff will be considered for them; if suitable jobs do not become available the member of staff's employment will terminate at the end of their notice.
- 3.3 Managers need to be aware that the duty to find a member of staff suitable alternative employment may arise from a statutory duty on the Council and that failure to offer an employee suitable alternative employment that is available could result in legal consequences with a wider impact than the specific service where the job may be located.
- 3.4 As a result, line managers may not have the same degree of flexibility about whether or not to accept a redeployee as they would expect to have in a normal recruitment process. HR will advise on individual cases. The Council expects and requires line managers to apply the provisions of this procedure in the spirit in which it is intended.
- 3.5 Staff seeking redeployment have a responsibility to take a positive approach and to play an active role in securing alternative employment.
- 3.6 In the event of an internal reorganisation every effort will be made to redeploy affected staff to alternative posts within the existing team or service.

4. Eligibility

- 4.1 Access to the Redeployment Scheme is limited to employees for whom the Council has a legal obligation to seek alternative employment. At the time of writing this procedure this includes staff who need to find alternative employment because of disability, redundancy, chronic or long-term sickness and capability reasons that have been considered under the Capability Procedure.
- 4.2 This list may be extended or changed by the Council, subject to consultation with the recognised trade union, in response to changes in legislation and/or case law.
- 4.3 The Redeployment Procedure is not open to staff who are simply seeking a career change.

5. Categories of Staff and Priorities

- 5.1 Employment legislation and case law imposes different levels of obligation on the Council to redeploy staff dependant on the reasons for the redeployment and the circumstances of the individual employee. In particular, there is a specific obligation to offer alternative employment to staff on ordinary or additional maternity leave or adoption leave. To ensure that the Council meets its legal obligations, therefore, it is necessary to clearly identify how the Council will ensure that these different levels of legal obligation are met.
- 5.2 Staff admitted to the Redeployment Register will be placed in one of the following priority categories: (the priorities are not statutory and some variation may be possible, which will require careful consideration and advice).

Priority Category 1: Pregnant employees or those on ordinary or additional maternity leave or adoption leave who are under notice of dismissal for any reason other than misconduct or capability.

Priority Category 2: Employees who become disabled and for whom redeployment to a suitable post is a reasonable adjustment.

Priority Category 3: Employees with over 2 years service (including those on fixed term contracts of over 2 but under 4 years length) who are under notice of redundancy;

Priority Category 4: Permanent employees with under 2 years service who are under notice of redundancy;

Priority Category 5: Permanent employees who have been recommended for redeployment as a result of a capability hearing.

6. The Redeployment Process

- 6.1 Staff will normally be nominated for redeployment by their Line Manager.
- 6.2 HR will determine whether the member of staff meets the criteria for admission to the redeployment scheme and which priority category the employee will be placed in.
- 6.3 If an employee, or their line manager, feels that they have been unreasonably denied access to the redeployment register or placed in the wrong priority category they may raise the matter under the grievance procedure.
- 6.4 An HR Officer will interview each member of staff admitted to the Redeployment Scheme to conduct a skills audit and produce an inventory summarising the skills, qualifications and experience, together with an indication of the type of work he/she should to be considered for and whether he/she is prepared to consider redeployment into a lower graded post. This information will be agreed with each member of staff. A pro-forma Skills Audit is attached as Appendix 1.
- 6.5 All posts submitted for advertisement will be assessed against staff on the redeployment register before being placed for advertisement or forwarded to the Council's recruitment agent. If there is a likely match the employee will be advised and his/her skills inventory passed to the recruiting line manager.
- 6.6 If a post is inadvertently advertised but is potentially suitable for a redeployee, the redeployee will be considered ahead of any other candidates.
- 6.7 The suitability of redeployees for posts will be assessed through:
 - i. A review of the skills inventory only,
 - ii. An informal discussion with the redeployee about the job requirements,
 - iii. A more formal interview (N.B. this option will only be used where there is more than one redeployee with a legitimate claim to the job).

HR may attend informal discussions or formal interviews on their own initiative or at the request of a redeployee or the recruiting manager.

- 6.8 If a redeployee appears to meet the requirements of the person specification for the post, or will do so with training that is available at reasonable cost and within a reasonable time-scale, he/she will be offered a meeting with the manager of the post to confirm or reject this assessment before undertaking a trial period in the post.
- 6.9 If there is a dispute about suitability and the manager determines that a redeployee put forward for a post is not suitable, the manager must provide HR with a written statement of the reasons for rejecting the redeployee which will be shown to the redeployee who can challenge the decision under the grievance procedure.

7. Trial Period

- 7.1 Staff under notice of redundancy have a statutory entitlement to a four-week trial period in a job offered as suitable alternative employment. The trial period allows both the employee and the employer to assess the suitability of the offer of alternative employment.
- 7.2 The statutory four-week trial period may be extended only for the purpose of training the employee to do the job and the length of the trial period must be determined at the outset. **The Trial Period cannot be extended once it has been started, for whatever reason.**
- 7.3 The trial period can last beyond the date of dismissal and, if a suitable vacancy is identified very near the dismissal date, the trial period can start after the old contract has ended.
- 7.4 A template letter setting out the details of the post, the trial period and whether or not the job is seen to be reasonable alternative employment, is included in Appendix 2.

8. Salary Protection

- 8.1 The Council believes firmly in the principle that staff should be fairly paid for the jobs that they do but also, that it would be an improper use of public money to offer open-ended salary protection to staff who accept redeployment to a lower graded job. We do recognise, however, that staff may need some time to reorganise their personal finances if they find themselves accepting a lower graded job, through no fault of their own.
- 8.2 No member of staff will be required to accept a job on a lower salary.
- 8.3 Where a member of staff chooses to accept a job at a lower salary, and with the exception of staff being redeployed following formal action under the capability procedure, the Council will provide some form of protection for a

period of three years to enable him/her to reorganise their personal finances on the following basis:

- 8.3.1 During this time the current salary only is protected, i.e. people do not receive increments, pay awards or any other payments which would see their monthly salary increasing (actually incurred payments like mileage and subsistence would be allowed at the current rate).
- 8.3.2 The protection will only normally be limited to 2 grades or the monetary equivalent except in circumstances where it is in the Council's interest to exceed this.
- 8.3.3 The rate of pay (inclusive of all contractual enhancements) an employee is receiving on the date on which the old job ceases is frozen for three years or earlier in cases where the salary at the top of the grade of the new job catches up in cash terms within the three year period. Of course if the freezing of pay takes the employee below the current rate (at the top point) for the grade of the new job, then the rate of the new job will immediately apply.
- 8.3.4 This means that the employee will no longer receive annual pay awards, increments or any other award such as the local 5% award if eligible after the above date until the end of the three year period or until the new lower salary catches up or overtakes the frozen salary if earlier.
- 8.3.5 At the end of the three year period if the new rate of pay is still lower, the employee will drop down to the new rate at the top of the grade.
- 8.3.6 Annual leave and other service related benefits will be protected for 3 years. Where a lower level of annual leave entitlement is attached to the new post, this will apply at the end of the protection period.
- 8.3.4 If the employee has a lease car attached to their previous role, this will be continued until the lease or the protection runs out, whichever is soonest.
- 8.3.5 Where applicable a certificate of protection to pension benefits will be issued.
- 8.3.6 Where the employee's payment varies from month to month the protected salary will be the average of the previous three months' payments.
- 8.3.7 At the end of the three years' personal protection the member of staff will be paid the highest point of the substantive grade for the job they have been redeployed into and will, from then onwards, receive the nationally negotiated pay awards for local government staff.

8.3.8 Those staff who become disabled during the course of their employment with the Council and where redeployment to a lower graded post would constitute a suitable adjustment will also receive protection as set out in 8.3.1 to 8.3.7 above.

8.3.9 Staff who choose to accept redeployment to a job with a lower salary following formal action under the Capability Procedure will be paid the maximum salary of the job they have been redeployed into from their first day in the job.

9 Additional Action

9.1 The Council will seek to establish reciprocal arrangements with neighbouring local authorities to share information about staff seeking redeployment, with the objective of increasing the opportunities available.

9.2 These arrangements will be completely voluntary and none of the protections provided by this procedure, such as trial periods and salary protection will apply.

9.3 Employees will retain continuity of local government service, but how this is applied to entitlements to local terms and conditions will be at the accepting authority's discretion.

9.4 Staff who are being redeployed because of redundancy will lose their entitlement to a redundancy payment if they accept employment with another local authority (or any body listed in the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification Order 1999) within 4 weeks of leaving East Herts' employment.

PRIORITY GROUP:

Redeployment Scheme: Skills Inventory

1. Personal Information

Name: Department:.....

Job Title: Post Number:

Access to email at Work? Yes/No

Access to email at Home? Yes/No (if yes give email address below)

.....

Work Phone Number:..... Home Phone Number:

Mobile Phone Number:

Home Address:

.....

2. Type of Jobs to be Considered

Minimum Grade: Full-time/Part-time:

Description of type of work sought

Special Requirements:

.....

3. Reason for Admission to the Scheme and Priority Group

Reasons for admission

PRIORITY GROUP:

Priority Group:

- 1 (Pregnant employees or those on ordinary or additional maternity leave or adoption leave who are under notice of dismissal for any reason other than misconduct or capability.)
- 2 (Employees who become disabled and for whom redeployment to a suitable post is a reasonable adjustment.)
- 3 (Employees with over 2 years service (including those on fixed term contracts of over 2 but under 4 years length) who are under notice of redundancy.)
- 4 (Permanent employees with under 2 years service who are under notice of redundancy.)
- 5 (Permanent employees who have been recommended for redeployment as a result of a capability hearing.)

4. Current Job Details

Brief Outline of Duties

(N.B. attach copy of JD and Person Specification)

PRIORITY GROUP:

Corporate Competency Levels

N.B. Need to list competency levels required by redeployee in their current job. May need to pick up changes made as part of the PDRS review.

Key Skill and Knowledge Requirements of Current Job

5. Previous Employment History

PRIORITY GROUP:

6. Qualifications and Training Courses Attended

7. Summary of Member of Staff's Knowledge, Skills and Experience

Knowledge

Skills

PRIORITY GROUP:

Experience

8. Jobs that the Member of Staff is Particularly Interested in.

9. Jobs in East Herts that Would Suit the Member of Staff