



ESSENTIAL REFERENCE PAPER C

AGENDA ITEM 6(B)

East Herts Council

Redundancy Policy

Policy Statement

**Policy Statement 6 (Issue No 2) October
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1.0 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 the Council wherever possible.
- 1.6 The Council's Redundancy Policy 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.

2.0 Scope of the Policy

2.1 This policy does not apply to employees at chief officer level and above.

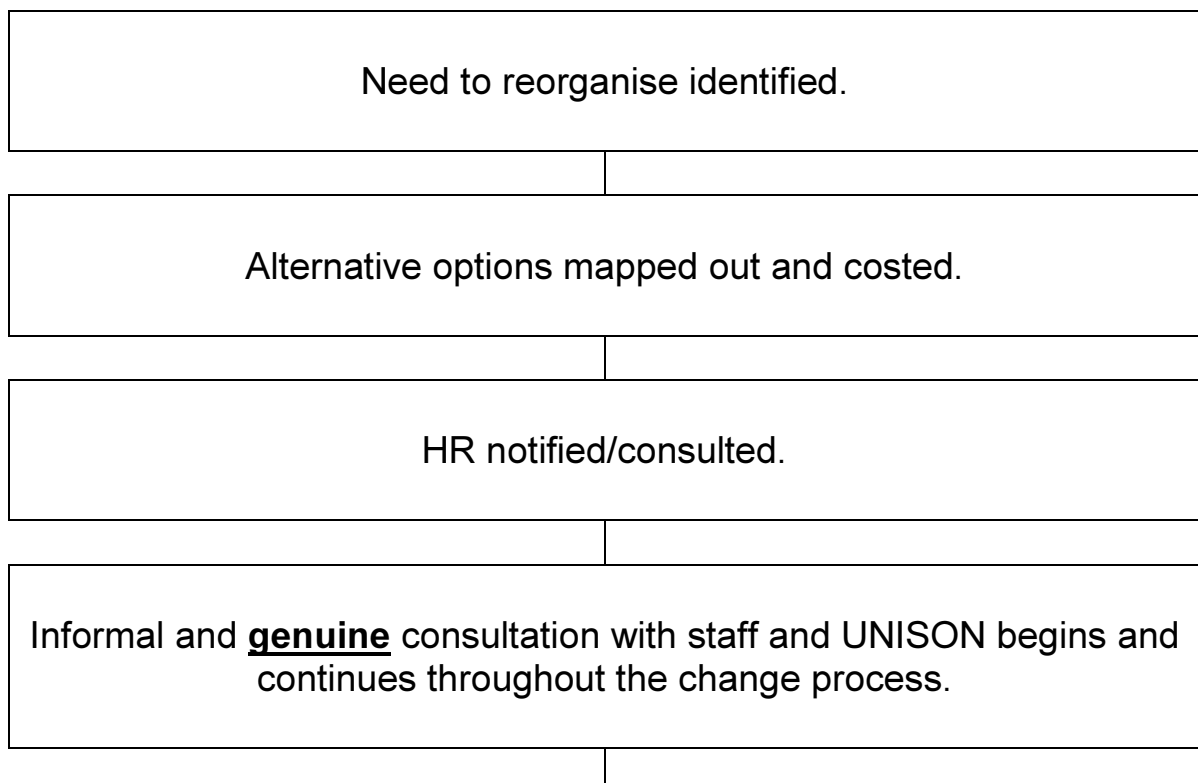
2.2 The Council will strive to avoid redundancies where possible and will always consider alternative options to achieve its objectives.

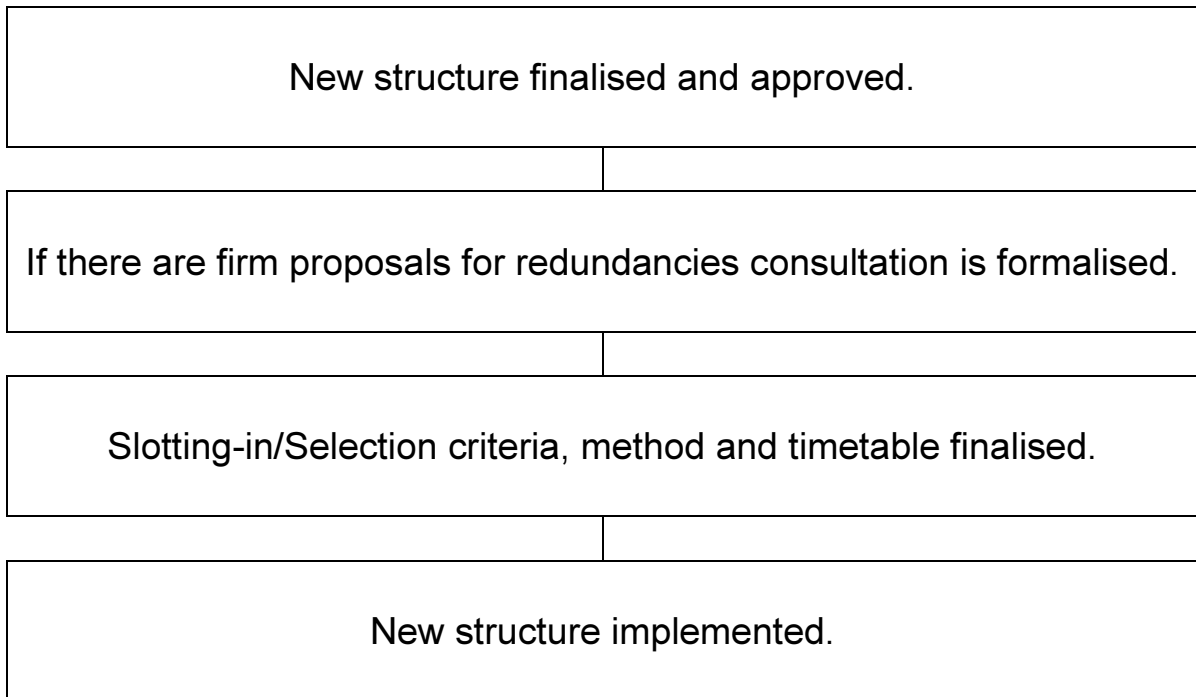
2.3 The procedure will not apply where an employee's services are terminated in the following situations:

- At the end of a pre-determined limited or fixed term contract where the employee has less than two years continuous employment.
- Retirement.
- Contravention of an enactment (e.g. where an employee who requires a work permit does not have one).

3.0 An Overview

3.1 No two business/service changes or restructurings will follow exactly the same process or timetable, but the following flowchart shows the key stages:





3.2 A more detailed outline of the stages and likely timescale for a business/service, restructuring are set out in the form of a management planning tool at Appendix A.

4.0 Identifying the Need to Reorganise

4.1 Managers should inform staff early about the need to make business/service changes or 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.

5.0 Exploring Options and Initial Consultation

5.1 Having established that a business/service need has changed or 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.

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

- 5.3 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.
- 5.4 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.
- 5.5 Informal consultations should also be opened with UNISON as soon as options for reorganisation have been developed.
- 5.6 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.
- 5.7 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 UNISON must be taken seriously and reasons given if they are rejected.

6.0 Obtaining Formal Approval for Proposals

- 6.1 Once the proposals for restructuring have been finalised a report should be submitted for approval in principle by the Corporate Management Team.
- 6.2 A copy of the report will be given to UNISON and the affected members of staff before it goes to CMT so that they may comment on its proposals.

7.0 Consultation

- 7.1 There is a legal requirement to consult UNISON and individual members of staff on redundancies before the first redundancy notice is issued.
- 7.2 Whilst informal consultation will have started as soon as redundancies were a possibility (see paragraph 5.5 above),

formal consultation must start at the point that redundancies are formally proposed.

7.3 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).

7.4 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.

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

- The reason for the proposed redundancies.
- The number of posts affected and the likely number of redundancies.
- The total number of similar posts within the Authority.
- The selection criteria for redundancy.
- 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.

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

7.6 Formal consultation must cover:

- Avoiding the dismissals
- Reducing the numbers of employees to be dismissed
- Mitigating the consequences of the dismissals
- Selection criteria and method (this will include any “ring-fence” arrangements – see paragraph 9.9 below)

- 7.7 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.
- 7.8 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. HR will arrange for Payroll to provide estimates of likely severance benefits for staff who have been told that they are at risk of redundancy.
- 7.9 Staff who are at risk of redundancy will be able to join the redeployment register early and take advantage of support available on a voluntary basis. If staff wish to explore these options they should contact HR.
- 7.10 Further consultation meetings with UNISON representatives will be held as necessary.

8.0 Appointing Staff to the New Structure and Selection for Redundancy

- 8.1 The process of appointing staff to the new structure results in those staff not being appointed being selected for redundancy.
- 8.2 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.
- 8.3 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:-
- Similarity of tasks carried out (this may be different to the employees job specification);
 - Transferable skills;

- If there are fewer jobs in the new structure, there will have to be a selection process.
- 8.4 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.
- 8.5 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.
- 8.6 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.
- 8.7 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.
- 8.8 In either case the following criteria will be considered:
- Skills
 - Experience
 - Work performance
 - Aptitude for work

- Disciplinary record
- Attendance record

8.9 Unison will be consulted about the selection process and their views taken into consideration.

8.10 As part of the selection process it may be necessary to identify which posts should be 'ring-fenced' to employees affected by the restructure. Proposals for any 'ring-fence' must specify both the posts and the employees to be included. HR must be approached for advice on identifying ring-fenced posts. Both UNISON and members of staff affected will be consulted on any proposals.

8.11 HR will advise managers to ensure that selection criteria and methodology is fair and reasonable and there is no discrimination on the grounds of race, sex, disability, sexual orientation, religion or belief or age.

8.12 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).

8.13 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 dismissal procedure will be invoked:

8.13.1 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.

8.13.2 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.

8.13.3 The outcome of the meeting will be confirmed in writing and the employee told how to exercise their right of appeal.

9.0 Redundancy Payment Calculation

- 9.1 Employees must have 2 years continuous service with the same employer (East Herts Council) to qualify for a redundancy payment.
- 9.2 In calculating entitlement too, and the amount of, redundancy payment the Council must count all continuous local government service (and with other specified bodies) up to a maximum of 20 years.
- 9.3 The Council uses the Government's Department for Business Innovation and Skills (BIS) statutory redundancy pay calculation but increases the statutory multipliers of 0.5, 1 and 1.5 weeks by 2.6.
- 9.4 BIS use the following figures in their Statutory Redundancy Reckoner table:-
- 0.5 week's pay for each full year of service where age during year is less than 22
 - 1 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+.
 - The maximum number of years service with one employer that can be used to calculate redundancy is 20.
 - The Government sets out a statutory entitlement for weekly pay. The limit changes annually in line with the retail prices index (up or down) as appropriate. The Council uses actual weekly pay for the purposes of redundancy payment calculations.
- 9.5 A copy of the statutory redundancy reckoner table can be found at:
<http://www.berr.gov.uk/whatwedo/employment/employment-legislation/employment-guidance/page33157.html>
- 9.6 Estimates of possible severance payments should be requested from HR.
- 9.6 Employees over age 55 (or 50 if the employee was a member on 31st March 2008 and retires before 1st April 2010 when it becomes 55 for all employees) can apply for immediate payment of accrued pension on dismissal for grounds of redundancy.

10.0 Appeals

- 10.1 Staff may appeal against redundancy/non-assimilation in accordance with the Council's Appeals Policy.
- 10.2 Staff will not be confirmed in posts and notices of dismissal will not be sent until all appeals have been dealt with.

11.0 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.)

12.0 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.

13.0 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 the Council written notice to terminate the contract early; this is known as "Counter Notice".
- 13.2 The 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.

14.0 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 can only be extended once it has been started by mutual consent.**

14.3 Where the trial period is successful, the employee will not be entitled to receive a statutory redundancy payment, as there will have been no termination of employment and hence no redundancy. If, during or at the end of the initial agreed trial period, either the employer or the employee reasonably concludes that the job is not suitable for the employee, the position reverts back to that of redundancy and the employee's employment will terminate (assuming no other suitable alternative job is available). The date of the redundancy for the purposes of calculating statutory redundancy pay in these circumstances is the date on which the employee's original job ended, and not the date of termination of employment after the trial period.

14.4 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.

15.0 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:

- Completing an application form
- Attending career counselling
- Registering with employment agencies
- Conducting internet searches at work
- Attending interviews.

This is not an exhaustive list.

16.0 Policy Review and Amendment

16.1 This Policy shall be reviewed after two years or sooner in line with legislation and best practice to reflect the best possible level of support and management.

Key Steps in Redundancy

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 consultation with staff and UNISON at a later stage, it is important for management to be clear about their preferences and the reasons 	2 weeks to 1 month

Key Action	Associated Actions	Likely Timescale
	for those preferences early in the process <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.	Again, important to discuss options with HR. <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. • 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 	2 to 6 weeks
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 	1 week

Key Action	Associated Actions	Likely Timescale
	<p>available, book accommodation</p> <ul style="list-style-type: none"> • 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 	
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