

JOINT WORKING & PARTNERSHIPS

GUIDELINES TO MANAGING HUMAN RESOURCE ISSUES

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Guidelines to managing Human Resource issues

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Joint Working & Partnerships

Guidelines to managing Human Resource issues

Introduction

These guidelines highlight the main human resource issues to consider when entering into joint working or partnership arrangements.

The diverse range and complexity of potential partnership and joint working arrangements across the Council, mean that the guidelines cannot be prescriptive or cover all possible situations.

The guidelines therefore identify key issues and questions that should be considered when entering into such arrangements. The overriding aim is to establish clear employment and management roles, responsibilities and accountabilities, on which effective partnerships or joint working arrangements will be based.

In all situations involving potential partnership or joint working arrangements, advice from the Departmental Personnel Officer must be sought as early as possible who will seek advice of the CPO as required.

Please refer to separate guidance on Transfer of Undertakings (TUPE) issues and Secondments for information on these specific areas.

Essential points from the guidelines are:

- Personnel/Human Resource professionals should be involved early in the initial planning process.
- The nature of the relationship between the parties involved in the partnership or joint working will be a key factor in determining employment related responsibilities and accountabilities.
- An individual's contract of employment is central in determining the terms and conditions of employment and policies and procedures which will apply.
- Employment liability rests ultimately with the contractual employer (the organisation which has issued the contract of employment).

- Where managers and the individuals they manage have different employers, roles, responsibilities and accountabilities must be clearly defined.

What are partnership or joint working arrangements?

For the purpose of this guidance, partnership or joint working arrangements are situations in which the Council works in association with one or more other organisations or bodies, and there is a potential impact on employment or management arrangements or responsibilities. Examples could include:

- Partnerships consisting of several organisations including the Council, whose employees work alongside each other to provide a joint service.
- A body created for a finite period to manage a project, with work undertaken by employees from the Council and other organisations.
- A regional partnership in which the Council acts as 'lead' organisation, or an accountable body.
- Partnerships with the private sector in which contractors work alongside Council employees.
- The provision of employees from one organisation to another on a consultancy basis.

Key Issues to Consider

1. Planning

Ensure:

- Personnel/Human Resource professionals from all relevant parties are involved as early as possible in the negotiation and planning stages.
- The nature of the proposed arrangement is defined, and understood by all parties, as this will determine employment and management, roles, responsibilities and accountabilities.
- Funding arrangements and obligations for posts are defined and agreed.
- It is clear from the outset who will be liable for any costs relating to termination of contracts, ie redundancy, claims etc, especially where there is finite outside funding.
- Legal advice is sought on the proposed arrangements.

2. Contracts of Employment

Partnership or joint working is likely to involve a number of employing organisations and a variety of contractual arrangements.

2.1 Liability

Employment liabilities relating to individual employees will lie with the contractual employer (the organisation which has issued an employee's contract of employment).

Which organisations 'own' which posts will usually determine who the contractual employer will be.

The contractual employer will not necessarily be the organisation with day-to-day management responsibility for the employee (see below for further information).

2.2 Individual Terms and Conditions of Employment

An employee's contractual terms and conditions of employment, as set out in his/her contract of employment, will apply.

Changing an employee's contract requires his/her agreement. If this cannot be obtained, a variation to contract process may be considered.

2.3 Issuing Contracts of Employment

The parties involved in the partnership/joint working should establish which organisation will issue contracts of employment for new appointments (and therefore be the 'contractual employer').

Factors influencing this will include:

- The relationship between organisations and nature of the partnership or joint working arrangement.
- Which organisation is the 'lead' organisation or accountable body.
- The nature of the particular post (for example, legislation dictates which organisation some posts must be managed by).
- The source of funding for the post.

2.4 Fixed Term Contracts

If appointments are fixed term, establish which organisation will be responsible for redundancy procedures and payments, and potential unfair dismissal claims, when the contract expires.

Employees on fixed term contracts must not be treated less favourably than comparable permanent employees on the grounds that they are fixed term employees.

For further guidance on managing fixed term contracts see Guidelines on Fixed Term Contracts.

2.5 TUPE (Transfer of Undertakings)

If an individual is transferred to or from an organisation, then TUPE legislation is likely to apply, and Legal Advice should be sought. Refer to 'Transfer of Undertakings (TUPE) Guidelines to Human Resource Issues' for further information.

2.6 Secondments

Where an employee is seconded from one employer to another, the secondee retains his/her status as a contracted employee and existing terms and conditions apply. Seek further advice for guidance on secondment arrangements.

3. Recruitment and Selection

Liability resulting from any recruitment decisions will normally rest with the employing organisation.

All parties should agree which organisation will be responsible for the recruitment and selection process and which recruitment and selection procedures should apply (normally those of the employing organisation).

The employer with whom liability for the recruitment decision lies, should be satisfied that those involved in the process are adequately trained in the appropriate recruitment and selection procedures.

Where decision-making authority for selection decisions will lie must be established. This will depend on the recruitment and selection procedures being applied, where liability for any complaints would lie, and the nature of the relationship between the organisations involved.

When dealing with a new or vacant post, the parties must establish:

- Where a vacancy will be advertised.
- The terms and conditions of employment that will apply to the post.
- A relevant job description, ensuring consistency with other similar posts.
- The appropriate grade and salary. If a new appointment within the Council, in consultation with the County Personnel Officer, who will advise on the grade. Consider any comparability or equality issues.

Whether any pre-employment checks or other conditions will be applied (for example Criminal Records Bureau disclosures or Occupational Health Assessment). The cost of the former should normally be met by the employing organisation.

4. Management Responsibilities

4.1 Employment Policies and Procedures

(Disciplinary, Grievance, Code of Conduct, Attendance and Capability etc.).

The policies and procedures in accordance with an individual's contract of employment, should apply.

Only the employee's contractual employer should implement procedures such as discipline, grievance, capability etc..

When Council employees are managed by managers from another organisation, or managers employed by the Council are managing employees from another organisation:

- Where a matter relating to a Council employee is identified by the line manager, who is not employed by the Council, the Council's Disciplinary procedures should be followed, with the line manager acting as a witness.
- Managers may be required to apply another employer's procedures, appropriate to an individual employee's terms and conditions of employment.
- To facilitate the application of the appropriate policies, procedures and practices, support for managers should be provided through the line management and personnel structure of the employee's contractual employer. This may include providing copies of the relevant procedures, briefing sessions or training on using the procedures.

Where the joint working is with other local authorities or certain NHS organisations, particular arrangements relating to the above, may apply. In such circumstances advice should be sought from the County Personnel Officer and the County Secretary.

4.2 Day to day Management Arrangements

Reporting lines and responsibilities should be clearly defined and understood by both employees and managers.

Objectives for each employee should be in accordance with the objectives of the project/team on which they are working.

If a partnership involves secondment of employees onto a specific project, an employee's time commitment should be agreed between the employee, manager and employer, to ensure expectations are clear.

4.3 Professional Management

Employees may be managed on a day to day basis by a manager employed by an organisation other than their contractual employer.

Some employees may require professional management and access to opportunities to ensure their professional status and competencies are maintained. Arrangements should be made between the employee, employer and manager to enable this to be maintained.

4.4 Communication

Organisations differ in their communication styles, management styles and value systems. Effective communication will therefore be essential for successful partnership or joint working.

- Communications should reach all employees within the partnership regardless of whom they are employed by.
- Mechanisms must be put in place to keep employees up to date with developments in their own organisation.

5. Working Arrangements

Employees working together but employed by different organisations may enjoy different working arrangements. Many working arrangements are contractual and will need to be managed on this basis.

Contractual working arrangements can only be changed with the employee's agreement. If this cannot be obtained, a variation to contract process may be considered.

6. Trade Unions

Partnership working may result in the Council dealing with Trade Unions it does not recognise for collective bargaining.

In these circumstances employees should be permitted to be represented by non-recognised Trade Unions.

7. Training and Development

Effective training and development will be essential for successful partnership or joint working arrangements. Responsibilities for ongoing training and development should be agreed between the parties involved at the outset, including who will be responsible for:

- Supporting and meeting the cost of employees' training and development.
- The induction process.
- The personal development review or management supervision process.
- Identifying and addressing specific skills/knowledge gaps.

8. Health and Safety

Ultimate liability for Health and Safety will rest with an employee's contractual employer.

As an employer the Council is responsible for ensuring:

- its employee's workplace – location, accommodation, working patterns and practices are consistent with protecting the personal security of the employee.
- that the necessary insurance cover and health and safety procedures are in place for its employees.

Advice on health and safety requirements relating to specific partnership and joint working arrangements should be sought from Departmental or Corporate Health and Safety Advisors.

9. Equal Opportunities

The Council's equal opportunity policy forms part of an employee's contract of employment.

The Council should be satisfied that when Council employees are working in partnership or jointly with other organisations, the necessary equal opportunities guidelines are in place.

Likewise, employees of other employers working within the Council should be required to comply with the Council's equal opportunities policy.