

Redundancy, Redeployment and Protection of Earnings Policy



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1. Introduction

This policy sets out the council's approach to redundancy, redeployment and protection of earnings. It is in accordance with legislative requirements and ACAS guidance and an Equality Impact Assessment (EIA) has previously been carried out to ensure it meets the requirements of the Equality Act 2010.

The council wishes to promote job security and continuity of employment for all its employees. However, there may be occasions when, for a variety of reasons, roles are affected by change and in some cases this may result in redundancy.

The aim is to safeguard the interest of employees ensuring their engagement in the process, whilst meeting the prime objective of maintaining high quality and cost-effective services. Engagement and/or consultation will include consideration of ways of avoiding redundancies, reducing them to a minimum and/or mitigating the consequences of dismissals.

Consultation will be undertaken with a view to reaching agreement and any representations or counter proposals made will be appropriately considered. The council will work with the trade unions to explore all reasonable alternatives to compulsory redundancy within the prevailing circumstances.

This policy provides a framework for managers and employees to make any transition as seamless as possible. The policy enables the council to meet its legal and contractual obligations.

Effective communication and engagement are important so employees understand the reasons for the changes being proposed, the impact on them, their role within the associated processes and the support available from the council.

The following are examples of change, it is not an exhaustive list:

- Departmental restructuring due to changes in service delivery.
- Rationalising duties in response to technological development.
- Withdrawal of funds for services which have a direct impact on employees' roles.
- The development of new roles as part of workforce modernisation.

This policy aims to provide a consistent, transparent and effective process for dealing with such situations, ensuring compliance with good practice and statutory requirements, balancing the needs of the council and employees in making organisational changes.

2. Scope

This policy applies to all council employees affected by change and/or who are at risk of redundancy.

Those employed by the council on a Fixed Term Contract, whose employment is ending due to being at risk of redundancy, have the same access to redeployment opportunities as permanent employees, including to both permanent and fixed term posts.

This policy also applies to employees who are being redeployed because they are at risk for reasons of ill health or performance. For such employees this policy should be used in conjunction with the Attendance Management and Ill Health Capability Procedure/Performance Capability Procedure as appropriate

Employees whose roles are based in schools through DCC services are within the scope of this policy, but employees directly employed and managed by the Governing Board of a school are excluded.

3. Roles and responsibilities

The successful implementation of change requires the active support, participation and co-operation of all parties, i.e., employees, managers and trade unions. The below outlines some of the key roles and responsibilities.

Employee's Role

- Make themselves familiar with the provisions of this policy and their personal responsibilities.
- Actively participate in the consultation processes.
- Engage in the confirmed selection and recruitment processes linked to implementing change.
- Undertake to be pro-active in seeking suitable alternative employment, where necessary, as part of the council's redeployment offer.
- Liaise with their line manager or HR Transformation if requiring more information on the process outlined.

Manager's Role

- Liaise with HR Business Partners and HR Transformation as a source of expertise, guidance and information.
- Act in a fair, supportive and equitable manner.
- Engage/consult regarding changes to roles/delivery of service.
- Support employees involved in organisational change
- Undertake individual/collective consultation as required.
- Assist in compliance with the Equality Act 2010 and other related statutory instruments, e.g. carrying out equality impact analysis.

Trade Union Representative's Role

- Maintain detailed knowledge of the procedures set out in the policy to provide informed advice to employees involved in change.
- Represent, advise, and support employees throughout the process.

- Be engaged and represent employees during collective consultations and negotiations relating to this policy.
- Liaise with management at all stages of the process to ensure compliance with statutory requirements and local frameworks.
- Participate in case reviews at the end of the process to identify learning in respect of the individual case and highlight any beneficial policy improvements.
- Assist in compliance with the Equality Act 2010 and other related statutory instruments, e.g., supporting equality impact analysis.

HR's Role

- Answer questions on policy and practice.
- Provide advice and support throughout the process.
- Support individual/collective consultation as required.
- Support the Director of People and Organisational Change to meet the statutory requirements under employment law concerning the provision of information to, and consultation with, appropriate representatives.
- Ensure the requirements to submit statutory redundancy notification to the Department for Business, Energy and Industrial Strategy are complied with.
- Lead on case reviews at the end of the process to identify learning in respect of individual cases and highlight any beneficial policy improvements.
- Assist in compliance with the Equality Act 2010 and other related statutory instruments, e.g., participating in equality impact analysis.
- Facilitate and manage the at risk process.

4. Measures to Avoid or Minimise Redundancy

The Employment Rights Act 1996 defines redundancy as occurring where:

- the **employer has ceased or intends to cease** to carry on that **business** for the purposes of which the employee was employed.
- **the employer has ceased or intends to cease** to carry on that **business in the place** where the employee was employed.
- the requirements of the business **for employees to carry out work** of a particular kind, or for them to carry out that work in the place where they were so employed, **have ceased, or diminished or are expected to cease or diminish.**

The council will manage redundancies in line with good practice and legal requirements and aim to minimise the adverse impact on both those employees who lose their position and on those remaining in employment.

The council is committed to maintaining high quality services and will, where feasible, make all reasonable efforts to avoid or minimise redundancies through working with employees and trade union representatives to consider the following options, where appropriate:

- Using approval to recruit processes to manage recruitment activity
- Considering natural workforce reductions through turnover
- Considering appropriate levels of overtime
- Reducing the use of temporary, bank and agency staff
- Voluntary reductions in working/buy out of hours.
- Seeking volunteers for voluntary redundancy or voluntary early retirement
- Providing opportunities for flexible retirement
- Reviewing structures, roles and responsibilities
- Where reasonably possible, redeploying and/or retraining employees for suitable alternative posts

The council is committed to creating and delivering effective workforce plans across all services to anticipate and meet current and future needs. The above list is not exhaustive, and all reasonable measures should be considered. Nor is the list in order of priority and the options considered will be based of the circumstances.

The council will work with the trade unions to explore all reasonable alternatives to compulsory redundancy within the prevailing circumstances.

5. Engagement and Consultation

Engagement

There is a need to work in partnership with trade union representatives to ensure that all fully appreciate the need for change and the scope of that change. It is essential for managers to engage with trade union representatives early in the process.

Discussions may include, but are not limited to:

- Changes to staffing requirements
- Arrangements for redeployment/displaced employees
- Recruitment of additional employees
- Required change to shift patterns, location, hours, ways of working
- Grade implications
- Application of relevant protection/redundancy arrangements
- Training and re-training needs
- Health and Safety implications

- Potential risks to service

Once the need and scope of change has been discussed, management can organise engagement sessions with the employees potentially impacted. Early engagement with employees is important, however, it must be balanced against what is appropriate to share prior to formal approvals being granted. These sessions will require the facts and proposals to be clearly communicated.

Formal Consultation

Details of proposed redundancies, the issuing of notices under sections 188 and/or 193 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) and financial implications will be agreed in consultation with Cabinet or Cabinet Member, as appropriate, and the relevant Executive Director.

The council is committed to full consultation when required/as appropriate with relevant trade unions representatives and individuals at the earliest opportunity to keep them informed throughout the process.

Responsibility for consultation lies with the relevant Executive Director and should be led by the designated operational manager(s) with support from HR Transformation as appropriate.

A formal and concise consultation document should be produced which clearly outlines the need, scope and timescales taking into consideration outcomes from previous discussions. A template is provided at appendix 1.

When

The council will consult with the full time official of the relevant trade unions in accordance with Section 188 of the TULRCA 1992 under Section 193.

Wherever possible, the council will communicate with employees and trade unions at the earliest opportunity, when proposals are at a sufficiently formative stage to enable consultation to be meaningful.

Consultation will be in 'good time' and the following statutory minimum timescales will be observed:

Number of employees it is proposed to dismiss at a single establishment within 90 days	Length of formal consultation period
100 or more	45 days
20-99	30 days

Redundancies involving 20 or more employees will be consulted on in accordance with the timescales and will be referred to as formal consultation within this policy.

The consultation process with employees and their representatives will precede any public announcement of specific redundancies.

Appendix 2 sets out an indicative timetable for managing potential redundancies.

Consultation will cover the above issues and also ways of:

- Avoiding the dismissals.
- Reducing the number of employees to be dismissed.
- Mitigating the effects of dismissals.
- Determining which employees are in the pool for redundancy selection.

An Equality Impact Assessment should be undertaken on each redundancy exercise to examine the implications of the proposals and any adverse impact discussed with the trade unions.

Guidance on how to assess the possible impact on people who belong to one of the Equality Act 2010 protected characteristic groups is available [on Our Derbyshire](#).

Who

Employees affected will be consulted with at the earliest opportunity and will be involved in discussions about impending redundancies, kept informed as fully as possible, consulted with on ways of avoiding redundancy, selection methods, selection pools and possible alternative work. This can be done at a team or individual meeting and forms the first part of the individual consultation. Any employee(s) directly affected, for example if their role is proposed to be disestablished, must be advised individually before any collective meeting.

Following the provision of consultation information formal consultation meetings and/or individual meetings will be held. Consultation will take place with the relevant recognised trade union(s) appropriate to the employees affected, whether or not any of the employees are trade union members. 'Employees affected' means employees who are at risk of redundancy and those affected by measures associated with the redundancies.

From these meetings management will consider any comments and share the changes and final implementation plan with trade union representatives and employees affected. The plan will also make reference to formal representation being available for employees affected and any collective agreements applicable.

Throughout this process employees absent from work on long-term sickness, maternity leave, adoption leave or other long-term leave or secondment will be consulted with in the same way with appropriate arrangements or adjustments put in place. This may include inviting them to meetings, sending information to home addresses, meeting via conference/video calls, visiting employees at home, or communicating through appropriate representatives. Details of attendance must be recorded by the relevant manager.

Employees who are on Fixed Term Contracts (FTC) or acting up should be consulted with, paying attention to their different circumstances based on contract end date.

The number of individual and collective meetings throughout the formal consultation process should be appropriate to the scale of change proposed to ensure that employees and trade unions are given sufficient opportunities to consider the proposals, ask questions and suggest alternative options. Managers

should keep a record of dates, time of meetings, details of attendees and notes of the meetings.

Consideration should also be given to informing/consulting with other stakeholders/partners, e.g., other council services, external partners and the public if appropriate.

These requirements also apply when it is proposed to terminate contracts and offer re-engagement in order to implement a variation in terms and conditions, on which it has not been possible to reach agreement.

Form HR1

Proposed redundancies of 20 or more employees at one establishment in a 90-day period must be notified to the Department for Business, Energy and Industrial Strategy (BEIS) on form HR1.

A copy of the HR1 is also sent to regional trade union full time officials or other employee representatives who were consulted with as well as copied to the local trade union branch and job centre(s) as good practice.

6. Selection Processes

Appointment In

An 'appointment in' process should normally be used as part of the implementation of a revised organisation structure which involves a reduction in employee numbers as well as the creation of new or substantially changed roles requiring selection. Appointment in decisions can be made based on an application process or a preferencing/expression of interest exercise.

Adverts may be ringfenced to employees directly affected by the review, or it may be that some new positions are open to all Council employees or made more widely available to an external audience.

Employees should not be automatically slotted to a post within a review. Slots should only be considered where the role content remains substantially the same, and where there is no increase in grade.

Management must identify within the new structure any posts where slotting in might be appropriate for individuals, where the role and person profile are 'substantially the same' to their current post. No other at risk employee qualifies for consideration by virtue of holding a broadly similar post.

Where slotting in is identified as being appropriate for an individual the rationale for the decision to slot will be discussed with the employee as part of the formal consultation process. Slotting records must be kept throughout to document the processes followed, and outcomes.

Selection Out

The selection criteria for redundancy as detailed below should normally be applied where roles are unchanged in a function, but a reduction is required in employee numbers (rather than an 'appointment in' process).

Where only an individual or whole team is affected by redundancy, selection will not be required. When considering selections for redundancy the underlying consideration will be the ongoing needs of the service.

Determining the Selection Pool

The performance of individuals should not be taken into account when determining the selection pool and care should be taken to avoid selection pools that may be discriminatory e.g., focusing on part-timers who are more likely to be women or focusing upon a certain age group.

Factors to consider when determining a selection pool:

- Employees who work in a particular location that is proposed for closure.
- Employees who undertake a similar type of work that has either ceased or diminished or is expected to do so. In some circumstances this may be across departments to form a wide pool.

The following redundancy selection criteria should be used. This is based on a combination of the CIPD's Guide on Redundancy and ACAS.org.uk/redundancy

1. Ongoing needs of the service. The council must maintain a balanced workforce, able to meet future service and client needs.
2. Specific skills, competencies and essential qualifications or experience relevant to the future needs of the service.
3. Additional transferable skills and work experience. To be considered as evidence of flexibility and approach to work which may be a relevant service need.
4. Attendance records, which must be accurate.
5. Current disciplinary records.

The above is a guide for what may be included in any selection criteria with the actual criteria to be consulted on with trade union representatives at the time that it becomes apparent that redundancies may be required.

The purpose of the criteria is to ensure fairness, consistency and objectivity in the selection process. In addition, it is based on the specific needs of the service in the part of the organisation in which the selection criteria will be applied.

Employees with a disability will be supported throughout this process within the spirit of the Equality Act 2010.

Care must be taken to ensure that the selection process is not directly or indirectly discriminatory. Records must be kept throughout the selection process.

The selection matrix form at appendix 4 should be used in conjunction with the guidance notes at appendix 5.

The most important consideration for the future success of the council is to ensure that services can be delivered, and a balanced workforce can be maintained after the redundancies have been carried out. Specific skills, experience, flexibility and approach to work are likely to be the most relevant considerations.

In assessing skills and experience the following should be considered:

- The period to which an evaluation should refer.
- The availability of reliable information relating to an individual's employment.

It will be necessary to ensure that attendance and disciplinary records are accurate in order to be fairly applied as selection criteria.

Before using attendance as a measure for selection, the reasons for and extent of any absences must be known. The pattern and duration of the periods of sickness will be considered over the previous three years to assess the impact on the sustainability of service delivery. For example, where the employee is subject to the Attendance Management & Ill Health Capability Procedure, this will be considered.

Absences relating directly to an employee's disability (as defined under the Equality Act 2010) should be discounted as should time taken off for paternity, maternity, ante-natal, adoption and shared parental leave, training, jury service, territorial army or trade union membership duties.

With regards to using disciplinary records as a measure, managers must ensure records are up to date and disciplinary warnings current. Only current disciplinary records will be considered. Expired warnings should not be used in the selection process.

Voluntary Schemes

The decision when and who the voluntary early release schemes are offered to is governed by the circumstances of the review, e.g., the groups and numbers affected, opportunities for redeployment, affordability criteria, etc.

Voluntary release schemes should normally be made available to employees:

- who have become displaced following an 'appointment in' exercise, rather than beforehand.
- identified within a redundancy pool prior to the selection out for compulsory redundancy.

However, the council reserve the right to decide when to offer the schemes, based on circumstances and organisational need.

Other Considerations When Undertaking Selection Processes

Ring fencing may be considered in the following situations.

- Ring-fencing (reduction) applies where there is no change between the role in the old and new structure, and there are fewer roles available than employees matched to the roles. An assessment process is required to determine which employee(s) should be appointed to the role(s).
- Ring-fencing (suitable alternative employment) applies where the role in the new structure is not fundamentally the same but sufficiently similar in nature to be considered possible alternative employment. The manager will identify possible alternative roles based on the requirements of the employee's current role as compared with those of the duties, responsibilities, skills required and grade of the new role(s). A selection process is required to assess an employee's suitability for the role(s).

If the employee unreasonably refuses an offer of employment upon completion of a ring-fencing exercise, they may lose any entitlement to redundancy pay.

Where appropriate new structures will be appointed to from the top tier down.

The following sequence is recommended where possible:

- Stage One: All new roles should be opened up to everyone in scope. Ringfence roles where those in a ring fence apply for posts they wish to be considered for.
- Stage Two: If vacant posts remain after stage one advertise the posts to those at risk outside of the restructure/affected service area.
- Stage Three: If vacant posts remain after stages one and two advertise to the wider internal audience as well as externally at the same time, or as determined by management.

Where an organisational review results in there being no posts in the new structure at the at risk employee's current grade, the employee will have access to posts at the next level up in the new structure.

Bumping

Redundancy bumping is where one employee who is potentially at risk of redundancy (employee A) is moved into another role currently being carried out by someone else (employee B). This results in employee B being made redundant instead of employee A.

The council, whilst not obliged to commit to bumping, will consider if bumping is appropriate at the outset of any redundancy process to ensure any subsequent dismissals for redundancy are procedurally fair.

Following The Selection Processes

Once the consultation and selection are complete individuals selected for redundancy will be notified in writing that they are at risk of being made redundant. They will be invited to a meeting to discuss this, which is the second part of the individual consultation. The actual number of meetings will depend on the complexity of the proposals and what the employee has to say, and the Council will consider arguments that the employee puts forward.

Once the individual consultation has been completed, and if redundancy cannot be avoided, the employee will be given 12 weeks' notice in writing of their dismissal, and be given an explanation of the redundancy payment that will be applied and their right of appeal.

Employees are entitled to be represented by a trade union representative or a work colleague at individual meetings. Managers must ensure individuals are consulted with appropriate representation.

Fixed Term Employees

The council must ensure that employees on Fixed Term Contracts are not treated less favourably than comparable employees on a permanent contract, under the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.

Those employed by the council on a Fixed Term Contract whose employment is ending due to being at risk of redundancy have the same access to redeployment opportunities as permanent employees, including to both permanent and fixed term posts.

Employees on Fixed Term Contracts who have less than two years continuous local government service would not be eligible for a redundancy payment if they were unable to secure suitable alternative employment.

7. Right of Appeal

Appeals against redundancy dismissal are to Executive Directors and must be registered in writing within seven calendar days of notification of the decision to the Director of People and Organisational Change setting out the grounds of the appeal.

The employee will receive a reply to the appeal letter within seven calendar days, acknowledging the registering of the appeal. The appeal will be arranged as soon as practicable with the employee informed of the place, date and time of the appeal hearing in writing. Any statements of case or evidence on which either management or the employee wishes to rely will be provided to the Hearing Officer and other parties at least seven calendar days prior to the hearing.

The Hearing Officer will be an Executive Director or a member of their senior management team (normally from a different department to that in which the original decision was made) supported by HR and legal officers.

The employee will be entitled to be accompanied at the appeal by a colleague or trade union representative.

The Executive Director, or a member of their senior management team, may uphold the appeal or confirm the original decision.

The individual employee and relevant trade unions will be informed in writing of the decision as soon as practicable but within seven calendar days. The decision will be final.

An appeal hearing process is included at appendix 6.

If an employee raises a grievance during redundancy proceedings, the grievance may be heard as part of the redundancy procedures where the two cases are related.

8. Suitable Alternative Employment

The council has a statutory duty in redundancy situations to consider whether suitable alternative employment exists. The process described in this section, applies to all employees who are identified as being at risk for reasons of redundancy, ill-health capability and reaching the end of a Fixed Term Contract.

Consideration of suitable alternative employment opportunities should start as soon as employees are identified as at risk, in accordance with council's Redundancy, Redeployment and Protection of Earnings Policy.

The process of considering alternative employment is an ongoing one and if the council identifies new opportunities for alternative employment right up until the date of dismissal it should continue to notify affected employees and give them an opportunity to be considered for it.

Employees absent on maternity, adoption and shared parental leave will be provided with details of suitable vacancies that arise and given first refusal on any alternative employment where there is a suitable available vacancy.

It is difficult to be prescriptive on what is suitable alternative employment because in law it is what is deemed to be reasonable. HR Transformation can provide support with this.

The employee will be given sufficient details to enable them to decide whether the role is a suitable alternative. Employees who unreasonably refuse an offer of suitable alternative employment may lose any entitlement to redundancy pay.

Reasonable adjustments will be considered for any disabled employee within this process. It may be necessary for an Occupational Health Physician to carry out a workplace assessment where an employee is at risk for reasons of ill health.

Employees transferred to a new workplace or redeployed to another post are entitled to a statutory trial period of 4 weeks. This commences at the end of the notice period where the employee has accepted employment on terms and conditions which differ in any material respect from their previous terms and conditions.

The purpose of the trial period is to give the employee a chance to decide whether the new role is suitable without necessarily losing the right to a redundancy payment. Employees are required to meaningfully engage during a trial with a view to seeking a successful outcome. The four-week trial period may be extended for training purposes by written agreement.

Should management or the employee wish to end the trial before the end of the four weeks for a reason connected with the new role, the employee may preserve any right of a redundancy payment under the old contract. However, service within the trial period does not count towards the redundancy payment. The employee reverts back to the original contract and the employment officially ends on the original dismissal date.

The council may also consider the possibility of retaining the employee in a temporary capacity until permanent vacancies arise. This would be particularly appropriate in services where vacancies arise regularly.

9. Support Measures

It is recognised that the possibility of facing redundancy can be an anxious time. Managers have a responsibility to provide appropriate support and advice to employees and make guidance available. The ['Your Wellbeing'](#) section on Our Derbyshire has more information about the support available.

An employee is given **at risk** status when it is known that they do not have a position. Employees are deemed to be in this category:

From the beginning of the formal consultation period where there is an approved Cabinet Report that specifies their role is proposed for deletion e.g., they may be in a unique job or employed in a section/location that is wholly closing down.

or from the point that they are unsuccessful in securing a role within the new structure after a reorganisation.

or from the point that an employee is provisionally selected for redundancy following the scoring of employees against criteria in a selection pool.

or it has been confirmed that their Fixed Term Contract is coming to an end where the reason for termination or non-renewal falls within the definition of redundancy.

At risk employees are provided with full redeployment support as detailed in the Redeployment Policy at section 11.

10. Buy Out Of Hours

One of the measures to minimise redundancies is to reduce workforce costs by giving employees an opportunity to reduce their contractual hours. Employees will be asked if they wish to reduce their contracted hours. The reasonableness of applying this will need to be agreed on a case-by-case basis. Employees can opt to reduce their contractual hours in increments of one hour per week.

The one-off payment will be calculated pro rata to the reduction in hours using the Buy Out of Hours payment matrix (attached at Appendix 4). This payment reflects the grade and pay point of employees calculated according to their actual pay for 26 weeks. This one-off payment would be subject to tax and NI contributions and will be made upon reduction in hours and a signed variation to contract agreement.

The scheme would be targeted primarily at specific employee groups or sections where savings are required and applied with the agreement of the relevant Executive Director.

Hours will be bought out on an indefinite basis and the payment must be repaid in full if the employee leaves the Council within six months.

Maximum buy out of hours is equivalent to 2 days per week, or pro rata for part time staff. No payment will exceed £5,991. No payment will exceed the amount that would be received in redundancy pay.

Employees must have a minimum service with the Council of one year.

The following exclusions apply:

- Employees taking voluntary redundancy, voluntary early retirement or flexible retirement.
 - Employees subject to (non-disability related) capability procedures who are recommended to reduce their hours.
 - Requests will not be approved where the work that the employee carries out cannot be absorbed by the employee, by others or ceased.
 - There will not be an increase in headcount, use of agency staff, overtime or additional hours to accommodate a request to reduce hours.
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11. Redeployment Policy

Eligibility

This redeployment policy applies to employees in the following circumstances:

- **At risk of redundancy** - see support measures below
- **Disability, illness and injury** - In cases where an employee is permanently unable to continue in their substantive role, and it is not possible to make reasonable adjustments, redeployment may be considered. Redeployment should be considered where the Occupational Health Physician has advised that the employee is unfit to undertake certain aspects of their current role but may be able to undertake different tasks. The manager, in consultation with the employee, should take a decision as to whether redeployment is a viable option, based on an initial discussion regarding the employee's skill set. For redeployment to be viable there needs to be a suitable redeployment opportunity available. Employees have a shared responsibility to seek redeployment opportunities. Please take advice from the Advice and Support Team.

Support Measures

Support measures for those at risk of redundancy include:

- Inclusion on the council's redeployment register
- Access to DCC vacancies
- Access to the employee counselling scheme
- Reasonable time off to attend internal and external interviews
- Allocated a redeployment officer to assist with supporting the identification of vacancies considered as suitable alternative employment opportunities by the employee
- Priority interview status for posts at the same grade
- Application of pay protection in accordance with the agreed policy where an alternative role is accepted on a lower grade
- Application of excess travel arrangements in accordance with the agreed scheme
- Offer of shadowing experiences, if available
- Offer of taster experiences, if available
- Support from the National Careers Service
- Financial planning advice and guidance
- Reasonable time off for appropriate external training
- Mentoring
- Training and development to support a career move
- Support for employees through the Job Centre Plus Rapid Response Service (under notice only)
- A four-week statutory trial period for redeployment into an alternative position (under notice only)

Employees covered by the Redeployment for disability, illness and injury would receive the following support measures:

- Inclusion on the council's redeployment register
- Access to DCC vacancies
- Access to the employee counselling scheme
- Reasonable time off to attend internal and external interviews
- Allocated a redeployment officer to assist with supporting the identification of vacancies considered as suitable alternative employment opportunities by the employee
- Priority interview status for posts at the same grade or below
- Application of pay protection, in accordance with the agreed policy, where an alternative role is accepted on a lower grade
- Offer of shadowing experiences if available
- Offer of taster experiences if available
- Support from the National Careers Service
- Mentoring
- Training and development to support a career move

Managers and employees should consider and discuss the training and development opportunities that are available and appropriate. Managers should endeavour to meet reasonable training and development requests from employees who are displaced or under notice of redundancy.

Responsibilities for Redeployment

Director (or their nominated representative)

Directors and line management have primary responsibility for redeployment and will ensure that there are effective redeployment arrangements in place within the corporate framework. They must liaise with HR Transformation for advice where employees are at risk of redundancy to seek suitable redeployment opportunities across the council.

Council vacancies are released direct to an internal and external audience, but managers are still required to continue to consider the council's redeployment policy, giving priority consideration to any at risk applicants.

Employees

Employees have a responsibility to actively seek redeployment and should adopt a reasonable and flexible approach when considering alternative roles. If the council identify a role that has similar terms and hours, they reserve the right to offer this as suitable alternative employment. Employees who unreasonably refuse an offer of suitable alternative employment may lose any entitlement to redundancy pay.

Employees must ensure that they inform the recruiting manager that they are subject to redeployment by indicating this clearly on their application form. Whilst subject to redeployment employees should also make their redeployment officer aware of all positions they are applying for.

Where the employee has a disability (as defined under the Equality Act 2010) the council will take all reasonable steps and consider reasonable adjustments to support the employee in securing redeployment. Consideration must be given to the need to provide a greater degree of assistance in finding alternative work.

Recruiting Managers

Priority Consideration

Where employees who are eligible for redeployment under this procedure meet the essential requirements for a vacancy (or could do so with reasonable training/support) they must be given priority consideration. Priority consideration will be for roles on an equivalent grade to the employee's current grade (provided there are no essential/statutory qualification requirements).

Where there is one employee eligible for redeployment into the role the recruiting manager will hold a priority interview to determine their suitability. Where there is more than one employee eligible for redeployment into a role, there will normally be a competitive process amongst priority candidates to fill the position. Consideration should be given to the individual circumstances of each case, in particular the extent to which the employee is at risk of redundancy dismissal or requirements under the Equality Act 2010.

It must be remembered that employees on maternity, adoption or shared parental leave have an entitlement to be offered suitable alternative employment, if such exists. Such consideration is in advance of that given to any other employees.

When considering applicants who have priority consideration for a vacancy, the recruiting manager must:

- Consider whether the employee has the skills and potential to undertake the role and has, or could acquire, the technical skills and knowledge through training and development within a reasonable timeframe and in line with agreed funding approval processes.
- Consider the employee's entitlement to a four-week statutory trial period to assess whether the role is suitable.
- Document the grounds on which the candidate has been deemed unsuitable for the position and discuss this with HR Transformation prior to advising at risk applicants of the outcome/proceeding with non at risk interviews.

12. Pay Protection Policy

The council's policy on pay protection provides protection for an employee's basic pay where it is reduced as a result of:

- Organisational restructuring
- Redeployment into a suitable alternative vacancy where the employee is at risk or under notice of redundancy
- Redeployment into a suitable alternative vacancy on ill health grounds
- The introduction of a revised pay and grading system

Cases of redeployment as a result of capability procedures, should be considered for pay protection on a case-by-case basis and advice should be sought from the Advice and Support Team.

The council recognises the need to ensure that any pay protection arrangements do not perpetuate inequalities in pay. This policy is based on existing equal pay legislation and the recognised need to achieve full pay equality.

Who is covered by the policy?

This policy applies to all DCC employees, including those whose roles are based in schools through DCC services. Employees directly employed and managed by the Governing Board of a school are excluded.

What pay is protected?

The pay protected will be the current pay rate which is the basic pay for the role as defined in the pay and grading structure. A maximum of up to two grades difference will be protected.

Pay protection will be for a maximum 18-month period from the date of change of pay.

The following components of pay are protected:

- Basic salary/hourly rate.
- Basic contract hours (including contracted overtime).

Any sick pay, holiday pay, maternity, shared parental or adoption pay will reflect the level of protected basic pay.

All protected pay is pensionable.

The following previous and existing components of pay are not protected:

- Additional hours worked over the minimum contractual guarantee.
- All pay related allowances e.g., standby, sleep in and recall, letting fees, shift allowances (removed on implementation of Single Status).
- All pay related enhancements e.g., overtime, unsocial hours, bank holiday working.
- All non-pay related allowances e.g., car allowances, subsistence allowances, telephone allowances, annual leave.
- Adjustments to the hourly rate resulting from the standardisation of the working week e.g., 37 hours and number of working weeks per year.
- Employee retention payments, acting up payments and payments for additional duties.
- Any increase in minimum contractual hours introduced after the operative date of pay protection.

Pay protection:

- Will not apply where employees voluntarily move to another role (unless redeployed, see above).
- Will not apply where the reduction in pay is as a result of a reduction in hours.
- Will be adjusted where employees voluntarily reduce their hours.
- Will not increase to cover additional hours, whether these are permanent or ad-hoc.
- Will not be applied to overtime.

What happens during the protection period?

During the protection period:

- There will be no annual incremental progression on the protected grade.
- Pay awards will not be applied until the current salary is equal to or greater than the protected salary.
- Protection will end, or be reduced, within the 18-month period where:
 - The employee is successful in securing another role.
 - The new current grade catches up with the protected basic salary.

Employees subject to pay protection will be given support by their line manager under the Performance and Development Review or My Plan process and also be offered:

- Access to the employee counselling scheme
- Reasonable time off to attend internal interviews
- Offer of shadowing experiences if available
- Application and interview support and guidance
- Support by the National Careers Service
- Financial planning advice and guidance
- Mentoring

What happens at the end of the protection period?

At the end of the 18-month protection period pay will be adjusted to the top point of the grade. There is no right of appeal at the end of pay protection.

What is the effect on pension benefits?

Benefits accrued prior to 1 April 2014 in the Local Government Pension Scheme (the scheme) are calculated on a member's "final pay" and period of membership in the scheme. "Final pay" is the full-time equivalent pensionable pay in:

- either the year ending on the day an employee stops being an active contributing member, or
- either of the two years immediately before that (if it would produce a higher figure).

It is anticipated that in certain circumstances it is possible to protect pension benefits accrued prior to 1 April 2014 where there has been a reduction in pensionable pay within 10 years of leaving.

If a scheme member had a reduction or restriction in their pensionable pay during their last 10 years' membership in the Local Government Pension Scheme, they can apply for final pay protection. An application for final pay protection can be made at any time between the reduction or restriction applying and up to 30 days before their active scheme membership ends. Subject to the Council approving their application, Derbyshire Pension Fund will look back at the previous 13 years' pay in the calculation of pension for membership before 1 April 2014 and will use the best average of any 3 consecutive years ending 31 March if that is higher than any year in the last 3 years before leaving.

Where the best average 3-year period is used for calculating pension for membership before 1 April 2014, the benefits payable are revalued to account for inflation.

Benefits accrued from 1 April 2014 are based on the new Local Government Pension Scheme. This is a career average revalued earnings scheme.

An application form and more information including examples of how final pay is calculated for membership prior to April 2014 are available from the Derbyshire Pension Fund website at www.derbyshirepensionfund.org.uk/changesinpay.

Review period of policy

To be undertaken jointly with trade unions 3 years after implementation, or earlier should legislative changes/council developments necessitate it.

CONSULTATION DOCUMENT TEMPLATE

**Formal Consultation on the Proposal for
[name of area/service]**

[Start and end dates of consultation]

Contents

Delete any headings that do not apply.

1. Background and Rationale for Proposals
2. About the Consultation
3. Structures – Current and Proposed
4. Appointing to the Proposed Structure
5. Measures to Avoid/Minimise Redundancies
6. Application of Voluntary Release Schemes
7. Redundancy Notices and Method of Calculating Redundancy Payments
8. Indicative Timescales and Dates
9. Further Support and Information
10. Consultation Feedback

1. Background and Rationale for Proposals

In this section, provide details of:

- the reason(s) for the proposals
- the proposed changes in the service (including new ways of working, location, any future skills requirements, etc.)
- financial implications
- business case for new posts
- details of any training required

2. About the Consultation

In this section provide details of:

- how to get involved
- dates of meetings
- what will happen to feedback during this consultation.
- TU consultation

3. Structures

In this section provide details of:

Current Structures(s): Provide details of the current structure and identify which posts are within the scope of the plan.

Proposed Structure(s): Provide details of the posts that will make up the proposed structure.

Attach a copy of the current and proposed structure charts and advise where copies of JPPs can be obtained.

4. Appointing to the New Structures

In this section provide details of:

- whether posts are to be slotted, appointed to or selected out. See Section 9 of the policy for more information
- how you plan to appoint in (application form/preference form/expression of interest) and select out (assessment form and criteria)

5. Measures to Avoid or Minimise Redundancies

In this section provide details of those that apply and expand upon them e.g.

- Natural wastage e.g. employee turnover/retirements
- Vacancy control
- Reduction of overtime
- Reduction of casual and agency employee and additional hours
- Redeployment into suitable alternative employment or temporary employment

The aim is to ensure that the valuable skills, experience and knowledge of our employees are retained where circumstances permit.

6. Application of Voluntary Release Schemes

Detail process and timescales, if being offered.

6. Redundancy Notices and Method of Calculating Redundancy Payments

In this section, provide details of:

- when notices will be issued
- method of calculating redundancy payments

7. Indicative Timescales and Dates

In this section, provide details of:

- the proposed timescale for consultation and implementation, including dates of meetings during the consultation period.
- Detail engagement and communication methods.

8. Further support and information

In this section, provide details of:

- HR drop in sessions
- NCS Workshops
- Useful contacts
- FAQs
- DCC counselling service
- Redeployment support

Add in links to relevant pages of Our Derbyshire

10. Consultation Feedback

In this section, provide details of:

- how and to whom employees should submit their responses to
- How information will be circulated (remembering those who are absent from work or who do not have computer access).

INDICATIVE REDUNDANCY TIMETABLE

Timescales are indicative and subject to the size and complexity of the redundancy exercise, statutory consultation required, Cabinet meeting dates and appeal hearings required.

This timetable is based on an indicative situation, timescales given are in excess of the statutory minimum and actual timescales may vary from those stated.

Procedure	Week
<ul style="list-style-type: none"> • Details of proposed redundancies and financial implications to be agreed through CMT (Corporate Management Team) 	<p>Prior to issuing of S188/HR1</p>
<ul style="list-style-type: none"> • Details of proposed redundancies and financial implications to be agreed in accordance with the council's constitution and the Scheme of Delegations 	<p>1</p>
<ul style="list-style-type: none"> • Trade unions provided with statutory information; if appropriate, Department for Business, Energy and Industrial Strategy (BEIS) notified on form HR1. 	<p>1 onwards</p>
<ul style="list-style-type: none"> • Director and their representatives consult with trade unions and employees with a view to providing statutory information and reaching agreement as to: <ul style="list-style-type: none"> - the potential need for compulsory redundancies - proposed selection method - selection pools 	<p>Ongoing</p>
<ul style="list-style-type: none"> • Director considers any responses received from the trade unions and employees as a result of consultation and seeks to minimise or mitigate redundancies where possible. 	

<p>If selection of individuals is necessary:</p>	
<ul style="list-style-type: none"> • Redundancy criteria and selection pools to be established. 	1-5
<ul style="list-style-type: none"> • Individual selection criteria forms completed. The scoring should be carried out independently by two managers who know all employees in the selection pool. The marks from the two assessors should then be added together to give a total score for each employee. 	6-8
<p>For all employees identified as at risk:</p>	
<ul style="list-style-type: none"> • As soon as reasonably practicable, Director notifies in writing the individuals provisionally identified and the relevant trade unions of their intentions, and the right of the individuals to make oral/written representation in an individual consultation meeting. 	9
<ul style="list-style-type: none"> • Employee(s)/trade unions receive sufficient notice of the meeting and are informed in writing of the place, date and time. 	9-13
<ul style="list-style-type: none"> • Further individual consultation meetings are held as appropriate and the manager considers any further oral/written representation and informs all employees concerned and relevant trade unions in writing of their decision. 	9-13
<ul style="list-style-type: none"> • Collective and individual consultation ends. 	13
<ul style="list-style-type: none"> • If the decision is to confirm the redundancy, dismissal notification is sent to the employee and trade union giving * notice of dismissal (not less than the statutory minimum) and advising of right of appeal. 	14
<ul style="list-style-type: none"> • Dialogue continues with trade unions on ways to avoid/reduce dismissals or mitigate consequences of dismissals. 	14-25
<ul style="list-style-type: none"> • Managers affected employees and redeployment officers commence and continue search for redeployment opportunities until end of notice period. 	14-25

<p>Appeal</p> <ul style="list-style-type: none"> • An appeal against a redundancy dismissal must be made in writing to the Director of People and Organisational Change within 7 calendar days of the decision. • The appeal will be acknowledged by letter within 7 calendar days. The appeal will be arranged as soon as practicable, and the employee informed of the place, date and time of the appeal hearing in writing. 	<p>15</p> <p>16-20</p>
<ul style="list-style-type: none"> • Appeal heard by an Executive Director or a member of the senior management team. • The employee will be notified of the appeal outcome by the Director of People and Organisational Change as soon as practicable, but within 7 calendar days. • Where the appeal is not upheld, dismissals are effective as stated in the original notice. 	<p>16-20</p> <p>16-20</p> <p>25</p>

*PILON (payment in lieu of notice) may be considered by the Council.

REDUNDANCY PAY

The council calculates redundancy payments in the same way for both voluntary and compulsory redundancies.

To be entitled to a redundancy payment, an employee must have a minimum of 2 years continuous service.

How many weeks redundancy pay someone is entitled to depends on all of the following:

- the employee's age
- continuous service (redundancy pay is capped at the last 20 years)

The calculation is based on:

- one and a half weeks pay for each full year of service the employee was aged 41 years or above.
- one week's pay for each full year of service the employee was 22 or older but aged under 41.
- half a week's pay for each full year of service the employee was aged under 22.

If the employee's pay changes from week to week the average weekly pay will be calculated from the previous 12 weeks, from the date of the redundancy.

Weekly pay is calculated in accordance with the Employment Rights Act 1996.

The maximum number of weeks payable is 30 based on a maximum of 20 years continuous service.

Any amount of redundancy payment over £30,000 is subject to tax.

Should an employee unreasonably refuse an offer of alternative employment, they may lose any entitlement to redundancy payments.

If an employee receives an offer of a position from another organisation covered by the Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1999 (broadly employers covered by the Local Government Pension Scheme) before the termination of your employment with the council and take it up within 4 weeks of the end of the old employment, there may be no dismissal for redundancy payment purposes. In these circumstances the employee will not be entitled to a redundancy payment.

REDUNDANCY SELECTION MATRIX FORM

Name		Position	
Section/Team		Grade	

CRITERIA	DEFINITION	EVIDENCE USED	WEIGHTING	SCORE	WEIGHTED SCORE	NOTES
Skills						
Qualifications						
Experience						
Transferable Skills						
Attendance						Ensure accurate
Disciplinary						Current only

Signed: **Position:** **Date:**

GUIDANCE FOR MANAGERS ON USING THE REDUNDANCY SELECTION MATRIX FORM

Knowing the appropriate approach to take

The redundancy selection criteria and scoring matrix should only be used where there is a redundancy situation arising from the need to reduce the number of employees in a specific role, i.e. where the number of existing employees exceeds the number of roles required. This is likely to be a result of a reduction in the service being offered, or a reduced demand for a specific service.

Managers should seek advice from HR Transformation if there are any questions about whether the redundancy scoring matrix should be used.

Agreeing the selection pool

The group from which employees will be selected for redundancy (the selection pool) must be carefully identified. It will usually consist of those who undertake a similar type of work in a particular department, who work at a relevant location, or whose work has ceased or diminished or is expected to do so.

Defining the criteria for redundancy selection

When it has been established that there is a need to reduce the number of employees in a specific role, and the redundancy scoring matrix is to be used, managers need to make a decision about which of the redundancy selection criteria they will use to make assessments against, along with any relative weightings determined by the current and future needs of the business.

Managers should use their judgement to select the criteria against which they can make the most fair and objective decisions. Consultation with the Trade Unions over the selection criteria to be used should take place.

Identifying a team to make the redundancy selections

Once the redundancy selection criteria have been identified, the line manager needs to make arrangements for the assessment of employees within scope of redundancy, against the criteria. As a minimum, two managers should be involved in the process. When selecting other managers to be involved with redundancy selection, the following should be considered:

- Does the manager have an understanding of the service area within which redundancies will be made?
- Is the manager clear about the requirements of the role against which selections will be made?
- If the manager is not familiar with the role, can they be given access to detailed and verified records so that objective, evidence-based decisions can be made?

Making an independent assessment

Once the managers have been identified, copies of the redundancy criteria and scoring matrix will be issued and managers will be required to make independent assessments of each employee against the agreed criteria.

Managers should consider the specific details of the criteria and make judgements, based upon evidence, about the score which an employee is assigned.

When making judgements about performance, available documentation should be examined and performance against targets should be measured. If during the selection process it becomes clear that employee performance records are incomplete for one or more employee, the performance criteria should be removed as a selection criterion.

If using knowledge, skills or experience as selection criteria, the specific requirements in relation to these areas should be identified at the outset of the process, so that fair and consistent judgements about individual employees can be made.

The moderation meeting

Once managers have made independent assessments of employees and have assigned scores appropriately, a moderation meeting should take place to agree the final scores. The scoring managers should attend this meeting, as should a HR Business Partner who will oversee the moderation and act as a critical friend to the process to ensure that the decisions made are robust and can hold up to external scrutiny.

The importance of a fair and transparent process

The decisions made about which employees are selected for and ultimately made redundant should be evidence-based, robust and able to stand up to external scrutiny. The consequences of this not happening are that the employee may seek redress for unfair dismissal, and redundancy selection decisions may end up being scrutinised in an Employment Tribunal. All decisions made should be objective and should avoid factors which are potentially discriminatory.

Outcome meetings

Once selection for redundancy decisions are made, managers should meet with each individual employee included within the scope of the selection pool, to discuss with them the outcome of the selection exercise as per the timetable published in the consultation document. Employees who are served notice of redundancy are entitled to receive support from the council in helping them to look for alternative suitable employment as outlined in the Redeployment Policy.

The Appeal Hearing Process – Redundancy Dismissal

The appeal hearing is chaired by the Hearing Officer and proceeds as follows:

- The Presenting Officer puts the case in the presence of the employee (and their representative) and may call witnesses.
- The employee (or their representative) has the opportunity to ask questions of the Presenting Officer regarding the evidence given by them and any witnesses whom they may call.
- The Hearing Officer has the opportunity to ask questions of the Presenting Officer and any witnesses called.
- The employee (or their representative) puts their case in the presence of the Presenting Officer and may call witnesses.
- The Presenting Officer has the opportunity to ask questions of the employee and any witnesses called.
- The Hearing Officer has the opportunity to ask questions of the employee and any witnesses called.
- The Presenting Officer and the employee have the opportunity to sum up their case if they so choose, with the Presenting Officer's submission being heard first.
- The Presenting Officer and the employee withdraw from the hearing.
- Any advisors to the Hearing Officer should remain in the room whilst a decision is made.
- The Hearing Officer deliberates recalling the Presenting Officer and the employee if necessary to clarify any points of uncertainty on evidence already given. If recall is necessary, both parties are to return even if only one may be concerned with the point giving rise to question.
- After careful consideration of all the information the Hearing Officer recalls both parties and states the outcome deemed appropriate. Should there be occasion where this is not possible due to the need to further review the details of the case the Hearing Officer may defer the decision.

Buy Out of Hours Matrix 2023/24 based on current hourly rate and 26-week multiplier

2023/24				
Grade	Pay Point	Salary	Hourly	Buy Out per Hour Reduced
1/2	1	£22,183.00	£11.50	£298.97
3	2	£22,366.00	£11.59	£301.43
4	3	£22,737.00	£11.79	£306.43
5	4	£23,114.00	£11.98	£311.51
	5	£23,500.00	£12.18	£316.71
6	6	£23,893.00	£12.39	£322.01
	7	£24,348.00	£12.62	£328.14
7	8	£24,958.00	£12.94	£336.36
	9	£25,597.00	£13.27	£344.98
	10	£26,234.00	£13.60	£353.56
	11	£26,871.00	£13.93	£362.15
8	12	£27,507.00	£14.26	£370.72
	13	£28,144.00	£14.59	£379.30
	14	£28,782.00	£14.92	£387.90
	15	£29,418.00	£15.25	£396.47
9	16	£30,054.00	£15.58	£405.04
	17	£30,691.00	£15.91	£413.63
	18	£31,328.00	£16.24	£422.21
	19	£31,963.00	£16.57	£430.77
10	20	£33,034.00	£17.12	£445.21
	21	£34,101.00	£17.68	£459.59
	22	£35,170.00	£18.23	£473.99
	23	£36,239.00	£18.78	£488.40

11	24	£37,339.00	£19.35	£503.23
	25	£38,439.00	£19.93	£518.05
	26	£39,538.00	£20.49	£532.86
	27	£40,638.00	£21.06	£547.69
12	28	£41,765.00	£21.65	£562.88
	29	£42,892.00	£22.23	£578.07
	30	£44,022.00	£22.82	£593.29
	31	£45,149.00	£23.40	£608.48
13	32	£46,363.00	£24.03	£624.84
	33	£47,577.00	£24.66	£641.21
	34	£48,791.00	£25.29	£657.57
	35	£50,006.00	£25.92	£673.94
14	36	£51,869.00	£26.89	£699.14
	37	£53,790.00	£27.88	£724.88
	38	£55,714.00	£28.88	£750.88
	39	£57,639.00	£29.88	£776.88
15	40	£59,559.00	£30.87	£802.62
	41	£61,482.00	£31.87	£828.62
	42	£63,406.00	£32.87	£854.62
	43	£65,327.00	£33.86	£880.36
16	44	£67,311.00	£34.89	£907.14
	45	£69,295.00	£35.92	£933.92
	46	£71,277.00	£36.95	£960.70
	47	£73,260.00	£37.97	£987.22