

1. Introduction

1.1 A redundancy situation arises where an employee's employment is terminated (wholly or mainly) for one of the reasons below:

- the Council ceases, or intends to cease, a service/function for which the employee was employed to undertake;
- the Council ceases, or intends to cease, a service/function in a place where the employee was employed;
- the requirements of the Council for employees to carry out work of a particular kind has ceased or diminished or is expected to cease or diminish;
- the requirements of the Council for the employees to carry out work of a particular kind, in the place where they were so employed, has ceased or diminished or is expected to cease or diminish.

2. Scope

2.1 This procedure applies to all employees of the Council.

2.2 This procedure does not apply to agency workers or self employed contractors. In addition, it does not apply to those employed in schools for which the Governing Body would be responsible. This policy with appropriate amendments may be adopted by Governing Bodies who will be required to make adequate and satisfactory arrangements of their own.

3. Authorisation

3.1 All programmes of organisational change must be approved by CMT. In addition, Cabinet must endorse any proposals for more than 20 redundancies, redundancies of 5 or more in an individual service area and 2nd/3rd tier officer redundancies that require reporting as a significant decision.

3.2 No proposals for redundancy will be approved until their feasibility has been fully assessed by the relevant Director in consultation with officers from OD/HR, Finance and Legal and CMT have approved the proposals.

3.3 The approval form for a business case for organisational change proposals is included in Appendix J

4. Measures to avoid or minimise redundancies

4.1 The Council will adopt measures to minimise the likelihood of redundancies in the event of a change which may result in changes/reduction in the number of posts required. These may include the following:

- reducing the use of agency/contract workers in the affected area/s;
- where practicable, a restriction on recruitment in the affected area/s combined with reductions through natural turnover;
- restricting vacancies to existing employees;
- the reduction or elimination of overtime in the affected area/s;
- retraining and redeployment of existing employees into suitable vacancies. Redeployment decisions will be taken by managers, in consultation with OD/HR, following an assessment against the requirements of the post;
- voluntary redundancy and/or early retirement. In these instances the Council reserves the right to determine which requests will be accepted in the light of organisational requirements;
- voluntary reduction in working hours (subject to approval based on business needs).
- Recruitment freeze

5. Voluntary redundancies

5.1 Where possible, redundancies will ideally be voluntary rather than compulsory.

5.2 Consistent with the Council's approach of avoiding compulsory redundancies, the manager may invite volunteers for redundancy from the affected area(s). An employee's expression of interest in applying for voluntary redundancy will not imply any commitment on the part of the Council or employee concerned at that early stage.

5.3 Applications for voluntary redundancy will be considered by the manager who will take into account the operational needs of the service area(s) for particular posts and for employee with specific skills and experience. The Council has the right to refuse a request for voluntary redundancy where necessary to preserve organisational balance and operational demands. Employees whose applications for voluntary redundancies are not accepted will receive written notification of the reasons why they can not be released at the conclusion of the consultation process. See Appendix X.

6. Compulsory Redundancies

- 6.1 In the regretful situation that compulsory redundancies are necessary despite avoidance measures, the selection of employees for compulsory redundancy will be carried out using fair, objective and non-discriminatory criteria. Compulsory redundancies should only take place once measures to avoid compulsory redundancies have been explored. See section 7 'selection criteria' of the Organisational Change Policy and Toolkit.

Employees on maternity/adoption leave

- 6.2 It is automatically unfair to make an employee redundant based on their maternity/adoption, parental leave, the birth or adoption of a child or pregnancy. Special rights are given to employees on maternity/adoption leave which means that they must be considered first for any suitable alternative employment opportunities before other employees at risk of redundancy. As an example, if 3 people were at risk of redundancy and there was only 1 post then the person on maternity/adoption leave should be given preference even if normally she was not the first choice. If the employee accepts this role, it should be kept open until her return from maternity leave. If the employee's post no longer exists, they will be placed onto the Redeployment Register, but given priority over other registered members for suitable alternative employment.

7. Consultation

- 7.1 Consultation for redundancies should follow the same consultation principles as outlined in the Organisational Change Policy and Toolkit.
- 7.2 In addition to consulting with the relevant trade unions, it is necessary to notify the Secretary of State for Business, Innovation and Skills of proposed redundancies involving 20 or more employees at any one location in a 45 day period. The Secretary of State must be informed before any redundancy notice is issued and where 20-99 employees are to be made redundant, at least 30 days before the first dismissal on the grounds of redundancy takes effect, or 45 days before in the case of 100 or more employees. This does not include the termination of fixed term contracts.
- 7.3 OD/HR will complete the relevant HR1 form that should be used to notify the Secretary of State for Business, Innovation and Skills. This form should also be copied to the recognised trade unions.
- 7.4 Where redundancies involving 20 or more employees are proposed, the manager will write to the trade unions prior to the first group consultation meeting with the following information:
- the reasons for proposed redundancies;
 - the numbers and descriptions of posts which it is proposed are 'at risk' of redundancy;

- the total numbers and descriptions of the posts affected and if assimilation, ring-fencing, prior consideration applies;
- the total number of employees within the service;
- the proposed method of selecting employees for available posts;
- the proposed method of carrying out the dismissal including the period over which the dismissals are to take effect;
- the date of the first consultation meeting;
- the proposed method of calculating the amount of any redundancy payments.

This letter is known as a S188 letter and a template is included in Appendix N.

Group consultation meetings:

- 7.5 Employees who are likely to be affected by the proposed changes, and the relevant trade union representative(s) should be invited by the Manager leading the change to a group consultation meeting, providing a minimum of 5 working days notice. Trade union representatives will be given as much notice as practically possible to ensure they can arrange representation. A member of OD/HR will usually also attend the consultation meeting.
- 7.6 Prior to holding a group consultation meeting, managers should endeavour to notify employees who may be at risk of redundancy of the situation so that they have time to absorb the information and are prepared. In some circumstances the employee may decide that they would prefer not to be present at the group consultation meeting.
- 7.7 The group consultation meeting should cover the purpose and scope of the proposed re-organisation with an explanation of why this is necessary. It should also include details on how the changes will be implemented, together with timescales and the impact for all those involved including:
- strategies to try and avoid or minimise redundancy;
 - dates of any subsequent consultation meetings;
 - the reasons for any proposed staffing reductions, which may include financial information where relevant;
 - procedures for any redeployment and/or job matching;
 - the selection processes that will apply in ring-fencing and prior consideration situations;
 - the process to be applied in considering applications for voluntary redundancy;

- consultation and implementation timescales;
- provision of an Equality Impact Assessment;
- copies of job descriptions for any new posts (**please note that revised job descriptions may need to be assessed through our job evaluation scheme to determine the appropriate salary level prior to consultation starting**).

7.8 At the group consultation meeting the manager will provide each employee with written details outlining:

- details of the organisational change proposal (e.g. the business case);
- how the proposed changes could affect them (e.g. are they at risk of redundancy);
- an invitation to an individual consultation meeting (or the option to meet if not directly affected);
- an estimation of severance sums if available and applicable.

7.9 It is often helpful to provide staff with access to frequently asked questions and responses. If one employee asks a question it is likely that others will have similar queries. Frequently asked question documents can help ensure consistent responses and also provide a written document for employees to look back over during the consultation process if they need clarification. It will most probably be possible to anticipate some questions prior to consultation starting and these can be added to as more questions arise during the consultation process. Where frequently asked questions are developed, they will be made available within reasonable timescales as agreed at the first consultation meeting.

7.10 Managers may chose to hold a further consultation meeting during the consultation period. This can be particularly helpful for more complex organisational change programmes to help ensure employees fully understand the reasons for the proposals.

First individual consultation meeting:

7.11 In addition to the group consultation meetings referred to above, employees who are at risk of redundancy should be consulted with on an individual basis. This provides them with the opportunity to discuss their own individual circumstances and receive response in private. Employees have the right to be accompanied by a trade union representative or work place colleague at individual consultation meetings if they wish.

7.12 It is important to consider individual circumstances in any reorganisation and to discuss ways to help individuals overcome any barriers that they may have to the planned changes. For instance, it may not be as easy for a carer to change hours or location due to their commitments outside of the workplace. By discussing the issues you may be able to work out a solution that meets both the individual and business needs such as allowing more notice for individuals to put alternative arrangements into place

7.13 Further individual consultation meetings will be arranged to address any issues / alterations as a result of earlier discussions

Final Individual Consultation Meeting:

7.14 The final individual meeting will take place with the manager or nominated representative. The employee will be given at least five working days' written notice of the meeting. The letter should remind the employee of the right to be accompanied by a trade union representative or work place colleague at the meeting.

7.15 At the meeting the employee will be given a further opportunity to consider the case for making their position redundant and to make any final representations as to why the post should not be made redundant.

8. Notice of redundancy

8.1 The employee will receive the period of notice on full pay, appropriate to which their contract of employment entitles them, or the statutory minimum notice equating to one week for each completed year of service with the Council up to a maximum of 12 weeks, whichever is the greater.

8.2 An employee with less than 2 years' continuous service with the Council and related employers is not entitled to a redundancy payment. However they are entitled to such paid notice in accordance with their terms and conditions of employment.

8.3 In some cases an employee's redundancy payment may need to include service accrued with a previous employer. Further details are included in Appendix H Local Government Modification Order Guidance.

8.4 During the notice period the Council will continue to seek suitable alternative employment for the employee.

8.5 A template letter providing notice is included in Appendix U.

9. Redeployment/Suitable Alternative Employment

9.1 Every reasonable effort must be made to assist the employees at risk of redundancy to find suitable alternative employment with the Council. During the employee's notice period the Council will continue to seek suitable alternative employment.

What makes an alternative role suitable for SAE?

9.2 When considering whether or not an alternative role is suitable, managers should consider:

- the employee's skills and experience, i.e. do they have the right skills and experience for the new role? Do they meet requirements of the person specification?

- the terms of the alternative post including status, place of work, duties, pay, hours and responsibility, i.e. how similar are these to the previous post?

- 9.3 Maintaining status and salary is not necessarily sufficient to confirm an alternative post as suitable if there are other clear differences between the two posts. For example, if an employee would not use the same skills in a new post or their working hours are significantly rearranged the new role is unlikely to be a suitable alternative;
- 9.4 If the new role is entirely or within 70% of an employee's existing job description and there is no significant change to salary or status, they should be matched into it. If there are some differences between the two roles, the employee should be offered a trial period (see trial periods in section 10 below).

When can an employee say no to a suitable alternative role?

- 9.5 If suitable alternative employment is found and refused by the employee they will be considered to have resigned and a redundancy payment will not be paid. However, if the employee is offered a post that doesn't meet the criteria for suitable alternative employment but is nevertheless an alternative post, the individual may refuse the post and will still be entitled to a statutory redundancy payment.

What if the alternative post attracts a lower salary level?

- 9.6 A position that attracts a lower salary may not qualify as suitable alternative employment although the review should take into account all factors and not just salary.
- 9.7 To support employees with making the transition to a lower salary level, the Council provides temporary pay protection where salaries have reduced as a result of organisational change or redeployment to an alternative post whilst under notice of redundancy.
- 9.8 Full details of the Council's pay protection scheme is included in the Redeployment Procedure in Appendix A.

10. Statutory trial period

- 10.1 Where an employee has been issued with a notice of redundancy and during this time a suitable redeployment opportunity is identified, the employee will be entitled to a statutory trial period of 4 weeks. This can be varied or extended up to a maximum period of 3 months if mutually agreed between the employee and manager. Extensions must be subject to the written agreement of both parties and the contractual period of notice may need to be extended accordingly.
- 10.2 The employee retains the rights to any severance payments throughout the trial period unless there are circumstances to warrant dismissal for any other reason. During the trial period there should be regular meetings between the manager and the employee to discuss support, performance and any training requirements. If the redeployment opportunity is found to be unsuitable after the trial period redundancy compensation will be payable.

11. Fixed Term Employees

- 11.1 There is a requirement under employment legislation to consult with employees whose fixed term contract is due to expire. Depending on the length of service with the Council the employee may also be entitled to a redundancy payment. Please refer to the Fixed Term Contracts guidance on SBCinsite.
- 11.2 Fixed term contracts that are expiring as planned are not included in the total number of proposed redundancy dismissals for the purposes of S188 and HR1 notifications.

12. Compensation

- 12.1 Employees who are made redundant and have two years or more continuous local government service (and who are not re-employed by another local government employer within 4 weeks of the end of their employment) will be entitled to redundancy compensation. See Redundancy Calculations Matrix in Appendix Y.
- 12.2 In some cases an employee's service with a previous employer may need to be taken into consideration when calculating redundancy pay. Further guidance is available in Appendix X, Local Government Modification Order
- 12.3 Redundancy payments of £30,000 or less free from tax and NI deduction in accordance with HMRC regulations.
- 12.4 Redundancy payments are not pensionable. However, employees in the Local Government Pension Scheme may be provided the opportunity of converting their redundancy compensation (less any statutory redundancy compensation) into additional pensionable service on a strictly cost neutral basis. The opportunity to convert compensation payment into pensionable benefits is to be undertaken before an employee's formal final day of service.

13. Re-employment by a local government or associated employer

- 13.1 An 'associated employer' is a body which is included in the Redundancy Payments (Continuity of Employment in local government) modification order 1999. If an employee who is under notice of redundancy receives an offer of a job from another Redundancy Modification Order (RMO) employer (e.g. another post in local authority) before the termination of his or her employment and takes it up within 4 weeks of the end of the old employment, there will be no dismissal for redundancy payment purposes, no redundancy payment and continuity of employment will be preserved in the new job.
- 13.2 If the employee takes a redundancy payment and commences work for the next RMO employer after four weeks have elapsed then continuous service will be broken.

13.3 In order to confirm their right to a redundancy payment, employees must complete the Local Government Modification Order form. Payment will not be released until the signed form is received by OD/HR. See Appendix I Local Government Modification Order.

14. Appeal against selection for redundancy

13.1 Employees dismissed on the grounds of redundancy have a right of appeal. The appeal must be submitted in writing to the relevant Director within 10 working days of receipt of the written notice of termination for reasons of redundancy and state the grounds for appeal.

13.2 Appeals against redundancy will be heard by a panel of 3 comprising:

- Director (not already involved in the redundancy)
- One or two Directors or Service Leads
- A representative from OD/HR not already involved in the redundancy process

Organisational Change Toolkit

Appendix B: Redeployment Procedure

1. Introduction

1.1 Slough Borough Council is committed to ensuring that employees facing redundancy due to organisational change are redeployed into suitable alternative posts wherever it is practical to do so. This procedure will be applied fairly and equitably across the Council.

2. Scope

2.1 This procedure applies to all employees of the Council. It excludes those working for the Council under an apprenticeship or NVQ Placement Scheme.

2.2 This procedure applies to redeployments which may occur as a result of redundancy and will also apply in cases of ill health, disability and capability.

2.3 This procedure does not apply to agency workers or self employed contractors. In addition, it does not apply to those employed in schools for whom the Governing Body would be responsible. This policy with appropriate amendments may be adopted by Governing Bodies who will be required to make adequate and satisfactory arrangements of their own.

3. Explanatory interview

3.1 When a redeployment situation occurs an interview will normally be arranged between the employee and the manager to discuss the situation. A representative from OD/HR will usually attend the meeting and the employee may wish to be accompanied by a trade union representative or work place colleague.

3.2 The purpose of the explanatory interview is to:

- ensure that the employee fully understands the redeployment process;
- explain the responsibilities of those involved in the process;
- clarify with the employee any contractual notice period that may apply;
- explore with the employee their work experience, qualifications and skills and to identify areas of work that might be suitable.

- 3.3 In cases of organisational change, an explanatory interview may not be necessary if the above areas are covered during the individual consultation meetings.

4 Redeployment information

- 4.1 Redeployees will be provided with access to job information and vacancy bulletins as soon as these become available. An HR Service Officer will be nominated to help the redeployee in obtaining information about suitable alternative posts. The employee also has a personal responsibility to identify their own redeployment opportunities. The Council will endeavour wherever practical and subject to the availability of posts, to take the employee's requirements into account in dealing with redeployment.

5 Skills matching

- 5.1 Employees are required to complete a Redeployment Skills Profile Form (see appendix Z), which must be countersigned by the manager. This form and a copy of the redeployee's current job description will be sent to OD/HR so that the employee can be added to the redeployment register. Failure to complete the form by the employee will not preclude the Council from continuing the redeployment process on the information known by the Council about the employee's skills and experience.
- 5.2 The manager should complete a reference for the employee and this should be attached to the Redeployment Skills Profile Form. This will be an open reference and the employee and any potential new manager will be able to read it.
- 5.3 When OD/HR identify a potentially suitable post, or they are notified of an employee's interest in a particular post, they will undertake an initial matching exercise using the Redeployment Skills Profile Form provided. If there is an initial match, information will be forwarded to the appointing manager for the post who will be asked to undertake a more detailed matching exercise. The outcome of this will be notified to the employee.
- 5.4 The Council will only consider redeployees for suitable vacant posts prior to interviewing other internal candidates not subject to redeployment measures and external candidates if the employee's Redeployment Skills Profile Form is received within the stated timeframe for dealing with the appointment, unless there is an exceptional reason for any delay.
- 5.5 Where there are more redeployees than suitable vacant posts available the Council will select through interview and appropriate selection testing.

6 Trial period

- 6.1 Where an offer of redeployment is made and accepted by the redeployee, a 4 week trial period will be arranged to determine if the new post is suitable. This can be varied or extended up to a maximum period of 3 months if mutually agreed between the employee and the manager. Extensions must be subject to the written agreement of both parties and any contractual period of notice may need to be extended accordingly.

- 6.2 During the trial period there should be regular meetings between the manager and the employee to discuss support, performance and any training requirements.
- 6.3 If the trial period is not successful, the employee will either have their notice of termination confirmed or, if their notice has not expired, an interview will be arranged with the HR representative to discuss their position.
- 6.4 In cases of redundancy, the employee retains the rights to any severance payments throughout the trial period unless there are circumstances to warrant dismissal for any other reason. If the redeployment opportunity is found to be unsuitable after the trial period redundancy compensation will be payable.
- 6.5 Where a redeployee successfully completes their trial period, the manager should confirm this with the redeployee and complete an Appointment Details Form and send this to OD/HR who will arrange for a contract variation or new contract to be issued. If the new role is at a different salary, or in the event that the trial period is not successful, the manager should liaise with OD/HR for advice.

7 Pay Protection Arrangements

- 7.1 The aim of temporary pay protection is to support an employee in making any necessary adjustments due to a decrease in salary level.
- 7.2 An employee, who is redeployed to a suitable alternative post which is one grade lower, will receive protection of earnings (basic pay plus local weighting allowance) for a period of 1 year. Their salary will be frozen at its current level and the employee will not receive annual pay awards. At the end of the protection period the employee will be placed on the salary grade relevant to the redeployed post.
- 7.3 Salary detriments arising out of restricting or ill health or disability redeployment (where it is outside of the service area of the employee's control) is funded centrally. Salary detriments arising out of a redeployment to resolve an employment dispute or redundancy situation will be funded by the originating service area.
- 7.4 Where an employee accepts redeployment to a post which is more than one grade lower, there is no entitlement to protection of earnings as the post will not be considered as suitable alternative employment. In exceptional circumstances, in order to minimise financial hardship and to avoid redundancies or support an employee with a disability remain in employment the relevant Director may, subject to budgetary considerations, exercise discretion to grant some element of protection. In such circumstances pay protection will not exceed 1 year.
- 7.5 If an employee is redeployed to a higher graded post then the salary level for that post will apply.

8 Pension arrangements

- 8.1 Pension entitlements may be protected at the salary applicable before redeployment. This is increased annually in line with inflation. Employees who wish their pensions to be protected must apply to the Pension Administrator, Royal County of Berkshire Pension Fund, Minster Court, 22-30 York Road, Maidenhead, Berkshire, SL6 1SF. The contact telephone number is 0845 602 7237. Currently this is protected for 13 years. This provision is subject to the rules of the Local Government Pension Scheme applicable at the time of redeployment

1. Introduction

- 1.1 A job matching process is required when posts in the proposed new organisational structure are new or revised/altered from existing posts in any way. The purpose of the job matching process is to determine how changed existing posts are and how employees should be placed in the new structure. E.g. confirm if employees should be matched or ring fenced and/or provided with restricted competition for a post in the new structure.
- 1.2 All job matching decisions must be undertaken fairly and consistently in all service areas and recorded on the decision matrix provided below.

2. Job matching panel

- 2.1 A job matching panel comprising the manager leading the organisational change programme and an OD/HR representative and a Trade Union representative will compare the old and new structures and posts in order to identify objectively the effect on each post and therefore the impact for each employee.

3. Job Evaluation

- 3.1 Prior to undergoing job matching, it may necessary for new posts to be assessed through the Council's job evaluation arrangements. This will ensure that the salary level for the role matches the size of the post and is comparable with similar size posts across the Council. Further advice on job evaluation is available on SBC Insite and from OD/HR.

4. Job categorisation

- 4.1 The job matching panel will review each post to determine:
 - The level of any changes to the overall purpose, main duties and responsibilities, job size, status, skills/experience/competences required to perform the post effectively (See Section 5 below)

- which posts are potentially redundant
- the impact for each post holder
- which posts may form redeployment/suitable alternative employment for employees affected by the changes
- which employees are affected and for whom redeployment/suitable alternative employment must be sought (including adding to the redeployment register).

5. Decision making process

5.1 The job matching panel will review each existing job description for a post against the new job description. Criteria will be assessed to confirm the level of match to the new post, scored as follows;

2 = completely matches criteria

1 = partially matches criteria

0 = doesn't match criteria

5.2 The criteria that must be assessed are:

- overall job purpose;
- main duties and responsibilities;
- job size (grade of post/budget/people)
- job status (title of post/level in organisation/reporting line);
- Skills/experience/competences required to perform the post effectively.

5.4 In respect of job size, a reduction or increase in budget/people/assets of less than 10% compared to the new role are considered minor changes and a match. A variance in budget/people/assets of between 11 – 20% is considered a partial match and a variance of more than 20% in budget/people/assets is considered a major change and not a match.

5.5 In respect of job status, if there has been a removal/addition of a key responsibility or a change in job title and reporting line, then this would be considered a more substantial change and not a match. If it is a minor change, for example of job title with no reporting line impact or vice versa then this would be considered a match.

5.6 For a post to be considered a match it must score 7/10 (70%) overall.

6. Decision Matrix Form and Finalising Job Matching

6.1 A standardised decision matrix should be used for all posts being evaluated through the job matching procedure. The job matching decision matrix form is provided in Appendix L.

6.2 At the completion of the job matching process, there will be a set of papers for each new post in the new structure, which will indicate whether the role is **new**, **revised** or **unchanged** and, if unchanged, which post(s) in the previous structure they match to. An establishment list can then be prepared for the new structure indicating whether:

- the post and post holders remains unchanged;
- the post remains unchanged but due to a reduction in numbers requires a ring-fenced selection exercise for existing post holders;
- the new or revised post requires a ring-fenced selection process for those who are at risk of redundancy and identified as a partial match/prior consideration
- the new post requires recruiting to from outside the immediate service area in accordance with the Council's recruitment and selection policy.
- which existing employees are at risk of redundancy due to no job match and therefore require suitable alternative employment to be sought/inclusion on the redeployment register

8 Acting up and secondments

8.1 An employee acting up/on secondment whose substantive role is affected by an organisational change programme must be included in the consultation process for their substantive post and where appropriate, any further selection processes.

8.2 Where an employee has been acting up for at least 12 months and there are vacancies at the higher level, they will be eligible for restricted competition to these posts (invited to express an interest and if they have similar skills and experience and match the person specification then they will be invited for interview to demonstrate their suitability to be appointed to the role before the post is advertised more widely). This will be after the remaining employees in the existing structure who are at risk of redundancy have had the opportunity to express an interest in remaining vacancies and have been considered.

- 8.3 Where an employee on secondment has been in the post for 12 months or more, they will be eligible for restricted competition – as above 7.2.
- 8.4 If an employee on acting up/secondment is not successful in being appointed to the new post they will return to their substantive position.
- 8.5 Managers should keep in contact with the manager of the seconded employees' substantive post if there is any likelihood that the secondment may end early as they may have temporary cover in place.

Appendix D: Guidance on consulting with employees absent from the workplace

1. Introduction

1.1 It is important that any employees who are currently out of the workplace are included in the consultation programme and kept informed about any redundancy situation. Employees may be absent from the workplace for variety of reasons including:

- family leave such as maternity, adoption or shared parental leave;
- longer term sickness absence;
- secondments;
- sabbatical/career breaks.

1.2 Employees who are absent from the workplace should also be included in any consultation and/or selection exercises. These should be handled in sensitively where necessary with reasonable adjustments being made to help facilitate the process.

2. Employees on family leave

2.1 It is important to ensure that employees who are on family leave are invited to attend consultation meetings, provided with regular updates and sent copies of any written correspondence during the organisational change programme.

2.2 Employees may be able to attend work as one of their 'keep in touch days' and providing them with as much notice as possible should help them with making any necessary childcare arrangements. If this is not possible, the manager should explore with the employee the following ways to engaged with them as part of the consultation process:

- meeting with the employee at or near their home
- holding the meeting over the telephone or my video conference
- allowing the employee to put their comments in writing
- ensuring that the employee is provided with copies of the notes of any group consultation meetings.

- 2.3 It is automatically unfair to make an employee redundant based on their maternity/adoption, parental leave, the birth or adoption of a child or pregnancy. Special rights are given to employees on maternity/adoption leave which means that they must be considered first for any suitable alternative employment opportunities before other employees at risk of redundancy. As an example, if 3 people were at risk of redundancy and there was only 1 post then the person on maternity/adoption leave should be given preference even if normally she was not the first choice. If the employee accepts this role, it should be kept open until her return from maternity leave. If the employee's post no longer exists, they will be placed onto the Redeployment Register, but given priority over other registered members for suitable alternative employment.

3. Employees on sick leave

- 3.1 Failure to consult with those on long-term sick could leave the Council at risk of a claim against disability discrimination. Individuals should be written to with an explanation as to why it is necessary to contacting them while absent from work and invitation to any consultation meetings. See Model Letter in Organisation Change and Redundancy Toolkit Appendix E.
- 3.2 If the employee responds that they are not well enough to attend a consultation meeting, advice should be sought from Occupational Health. If Occupational Health confirm that the employee is not fit to attend a consultation meeting in the workplace then other options should be considered such as:
- meeting with the employee at or near their home
 - holding the meeting over the telephone or my video conference
 - allowing the employee to put their comments in writing
 - ensuring that the employee is provided with copies of the notes of any group consultation meetings.
- 3.3 All reasonable steps should be taken to ensure that employees on long-term sick leave are involved in the consultation process. However, if an employee is unable to participate in the consultation process in any way at all and all measures listed above have been explored then, as a last resort, it may be appropriate to continue with the proposals and consult with the employee upon their return. In such circumstances it is important to explain to the employee that that this is what is being proposed and why, and provide them with the opportunity to submit their comments on such a proposal.

4. Employees on secondments

- 4.1 It is important to ensure that employees who are on secondment are included in all communication and consultation meetings regarding organisational change to their original service area and/or substantive post.
- 4.2 Employees who are on a secondment will be expected to engage fully in the consultation regarding their substantive post. It will be necessary for the hosting department to make reasonable adjustments to ensure that the employee is able to attend consultation meetings and participate in any selection processes.

5. Employees on a Sabbatical/career breaks

The expectation is that the employee will be able to return to the same, or similar, role and responsibilities held prior to taking their sabbatical/career break. Where a restructure or other organisational change takes place during the employees absence they will be consulted about this in the same way as their colleagues in accordance with the Council's policies and procedures. This may mean that alternative employment may be sought under the redeployment procedure if appropriate.

1. Introduction

Periods of organisational change can be an uncertain time for employees. There are a variety of sources of support for employees during organisational change including those outlined below.

2. Employee assistance programme

The Council has secured the services of an independent and confidential Employee Assistance programme (EAP), which can provide employees with a range of advice, support and where necessary confidential counselling. Further details on this service is available here <http://insite/media/1338/optum-eap-brochure.pdf> or by telephoning 0800 282 193.

3. Emotional support

There are several ways in which employees can be given emotional support:

- OD/HR organises resilience and mindfulness training events. For further information please visit SBC Insite;
- informal group meetings for staff undergoing organisational change can help reduce feelings of isolation, allow a forum for discussing emotions such as fears and anxieties and act as a networking opportunity;
- counselling is available to employees through the Council's Employee Assistance Programme provider. Further details on this service is available here <http://insite/media/1338/optum-eap-brochure.pdf> or by telephoning 0800 282 193;
- The Samaritans provides listening support for those going through difficult periods and can refer to specialists if necessary.

4. Training

It is unlikely that organisational change will succeed unless employees placed in new posts have access to targeted training and development to help them perform effectively. It is advisable that managers factor training and development issues into their organisational change programme at the earliest opportunity. Once employees have been appointed into their new or revised posts, the manager should meet with them to determine what training and development is needed to support the change programme.

Where an employee is at risk of redundancy, they may wish to consider training opportunities to help them with securing alternative employment. Training can be undertaken in the following ways;

- internal training and development opportunities are advertised on SBC Insite
- practical core skills training on request to ODHR e.g. interviewing skills
- resilience training using mindfulness tools
- tailored OD support for understanding and undergoing change
- informal group meetings for staff undergoing organisational change can help reduce feelings of isolation, allow a forum for discussing emotions such as fears and anxieties and act as a networking opportunity. If required, these can be facilitated by a member of the OD/HR team.
- the Government's comprehensive guide to learning resources, including information on higher education, adult learning and financial support for training (such as professional career development loans to study at college or university) is available on the education and learning section of the Government website
- information on courses and qualifications and advice for people who have been made redundant is available from learndirect
- further education colleges provide a range of reasonably priced adult education courses
- the Government website provides information and support and training for people interested in setting up their own business.

5. Job vacancies

Job vacancies may be available both within the Council and externally including:

- during organisational change, it may be appropriate to ring fence certain roles to employees who are at risk of redundancy. Employees will be notified should this be the case;
- other vacancies with the Council are advertised on our website. The majority of posts are advertised internally first on SBC Insite;
- recruitment agencies can provide help with searching for new opportunities and often can help with developing your CV and with preparing for interviews;
- websites such as indeed, Jobsite and Monster list vacancies from all over the country;
- vacancies within local government are often advertised on jobsgopublic.com and LGjobs.com;
- specialist posts are often advertised through online publications;
- Jobcentre Plus centres provide face to face advice and support with job searches and also have an online search facility through universal jobs search at <https://www.gov.uk/jobsearch>

6. Careers guidance

Employees who are at risk of redundancy may welcome the opportunity of some careers guidance, particularly if they have been working with the Council for a long time. Sources of career guidance include:

- the education and learning section of the UK Government website provides advice to recent graduates and people interested in changing career;
- Jobcentre Plus has information on a number of services, including redundancy support packages and job opportunities;
- university careers services provide assistance to their former graduates, or in some cases all graduates;
- online assessments and exercises to help individuals gain an understanding of their interests and abilities and suggest jobs that may match, include the Prospect career planner (the Prospects website also provides details of different jobs, pay rates and entry requirements).

7. Financial support information

Sources of financial support information include the following:

- information on eligibility for financial help and about jobseeker's allowance can be found on the Government website;
- The Money Advice Service is an advice service set up by the Government to help individuals manage their money.

8. Legal support

Sources of legal support include the following:

- Citizens Advice helps people resolve legal, money and other problems including redundancy, by providing free information and advice nationally;
- trade unions often offer help and advice for their members;
- Acas can provide confidential and impartial advice on redundancy issues.

9. Support for employees who wish to take voluntary early retirement

Some organisational change programmes may include voluntary early retirement (subject to Council approval). In these circumstances, employees considering voluntary early retirement may need additional support:

- the Employee Assistant Programme can provide support on planning for retirement;
- employees in the local government pensions scheme can obtain information and forecasts from the Berkshire Pension Fund by telephone on 0848 602 7237 or by email at info@berkshirerpensions.org.uk ;
- age UK provide a range of information and advice on preparing for retirement on their website at www.ageuk.org.uk/work-and-learning/retirement

TUPE GUIDANCE

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1. Introduction

1.1 TUPE is the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). The TUPE Regulations ensure that employees' terms and conditions are preserved when a business or undertaking, or part of one, is transferred to a new employer.

1.2 The Government has agreed that the transfer of employees from Councils to a new employer will act as a transfer governed by the provisions of the TUPE Regulations.

1.3 This toolkit is based on the following legislation:

- Transfer of Undertakings (Protection of Employment) Regulations 2006
- EC Acquired Rights Directive 1977 & 1998
- EC Acquired Rights Directive & Amended Directive 2001
- Transfer of Employment (Pensions Protection) Regulations 2005
- Collective redundancies & Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 & 1999

1.4 This toolkit is also based on the following Codes of Practice:

- Office of the Deputy Prime Minister (OPDM) Best Value Code of Practice on Working Matters in Authority Service Contracts 2003 (as amended by the Secretary of State's written ministerial statement of 23 March 2011)
- Code of Practice on Workforce Matters in Public Sector Service Contracts 2005.

1.5 This toolkit outlines how TUPE should be applied within the Council.

2. When TUPE applies

2.1 **NB:** Managers leading a potential TUPE transfer **must** obtain advice from the ODHR team to confirm if the situation is covered by TUPE protection.

2.2 Subject to certain qualifying conditions, the Regulations apply:

- when a business or undertaking, or part of one, is transferred to a new employer, or
- when a 'service provision change' takes place (for example, where a contractor takes on a contract to provide a service for a client from another contractor). This includes second and subsequent round contracts that result in a new contractor, and where a function is brought back into the council where employees originally transferred from SBC.

These two circumstances are jointly categorised as 'relevant transfers'.

3. When TUPE doesn't apply

3.1 TUPE will not apply in the following circumstances:

- Where the activity for which the public sector organisation is contracting is essentially a new or one off project;
- Where goods or services are essentially a commodity bought "off the shelf" and no grouping of staff are specifically and permanently assigned to a common task;

3.2 Where the service or function are significantly different from the function previously performed within the public sector, or by an existing contractor (e.g. a function to be delivered electronically and in such a way that it requires radically different skills, experience and equipment).

3.3 **NB:** Even where TUPE does not apply in strict legal terms, it is **best practice** to follow the principles of TUPE to ensure staff are not treated less favourably had the regulations applied.

4. Definitions

- The **transferor** is the 'old' (current) employer.
- The **transferee** is the 'new' (future) employer.

5. Key Principles of a TUPE transfer

5.1 **Employees' rights and entitlements transfer from the old employer to the new employer.**

Employee rights, including continuous service, transfer from the old to the new employer and will be unaffected by the transfer under TUPE.

5.2 **Employees' contracts of employment transfer from the old employer to the new employer.**

The contract of employment of any person immediately before the transfer will transfer to the new employer. The new employer is described as "stepping into the shoes" of the old employer so that all existing contractual terms and benefits, that existed prior to the transfer, are preserved. The new employer must ensure that the same or no less favourable terms and conditions are maintained.

The new employer must honour collective agreements in place at the time of the transfer for the duration of the contract.

Special points to note are:

The council is committed to following the ODPM guidance on best value practice on workforce matters in public sector service contracts which requires that either new transferees become an admission body of the Local Government Pension Scheme (LGPS) or offer a broadly comparable scheme certified by the Government Actuaries Department (GAD). There are some entry requirements; however, many organisations have successfully met these. In a tendering process, the council can express a preference for admitted body status, but cannot state this is a requirement as this may restrict which bidders can meet this criterion and may not ensure the best overall deal for the council.

All of the original employer's rights, duties, powers, and liabilities under the contract of employment of the transferring employees will transfer to the new employer. This can include, for example, liability for a personal injury sustained whilst in the employment of the old employer, or for a discrimination claim already lodged against the old employer.

The ODPM guidance on 'Code of Practice on Workforce Matters in Public Sector Service Contracts' requires that where the new employer recruits new staff to work on a local authority contract alongside staff transferred from the local authority, it must offer them employment on fair and reasonable terms and conditions which overall are no less favourable than those of the local authority transferred employees. This applies only to contracts established before 23 March 2011, when the Code of Practice was withdrawn.

There is no requirement for property or assets to transfer, i.e. computers, fleet vehicles etc. Any transfer of property etc. may be agreed as part of the tendering /contract process.

5.3 Employees are protected against dismissal for a reason connected with the transfer and can claim unfair dismissal.

TUPE gives enhanced rights to employees who are dismissed before, or after, the transfer. Such dismissals would be automatically unfair unless they can be shown to have been EITHER unconnected with the transfer OR for an economic, technical or organisational reason (sometimes referred to as an 'ETO' reason) entailing changes in the workforce. Special consideration needs to be given if considering terminating contracts for fixed term employees to ensure that their dismissal is not unfair and that they are not being discriminated against.

5.4 The department must inform and consult with directly affected employees, recognised trade union representatives and other affected employees before a transfer.

Under the TUPE regulations there is a statutory duty imposed on the old employer to consult and inform affected employees, and the "appropriate representatives", prior to the transfer of an undertaking. The process of consultation with employees and representatives must be undertaken with a view to reaching agreement as to the measures proposed.

Please refer to the Council's Organisational Change Policy – add link.

5.5 **Previous trade union recognition agreements are recognised.**

Where the old employer recognises an independent trade union in respect of employees who are transferring to the new employer, the new employer will inherit the recognition agreement.

5.6 **Changes or alterations to transferring employee's terms and conditions should be made with caution if related to the transfer.**

If changes or alterations to transferring employees' terms and conditions are connected to the transfer, they could be legally ineffective (even if the employee has agreed to the change or received an incentive for agreeing to it). The longer the period between the transfer and the variation, the less likely it will be that the variation is perceived to be connected to the transfer. However, there is no 'safe' period after which changes to terms and conditions can be made.

6. Roles and responsibilities

6.1 The Service area project team will lead on the TUPE transfer drawing on expert advice as required from HRBP, Legal Services, Procurement, Pensions and Finance. Activities that will be required to be completed include which employees are included in scope of transfer, risk assessment, due diligence and data collection, pension arrangements, any liabilities, warranties or indemnities that will apply.

6.2 In order to clarify the HR service provision in TUPE situations it is recommended that a Service Level Agreement be completed.

7. Transferring Out of the Council

7.1 **Establish whether TUPE applies.**

Application of TUPE depends on the particular circumstances of each case. Generally, it will be wise to assume that the regulations apply to any transfer. The principles of TUPE should be applied to the contracting out of any service and transferring of staff to the private, voluntary or community sector including (PFI, PPPs, strategic partnerships, trusts, joint venture companies and large-scale voluntary transfers. It also applies to re-tender of contracts, (regardless of whether a new or the same contractor wins the contract), and to extensions of contracts that are not put out for re-tendering if the contract was first made before 13th March 2003.

7.2 **Where tendering occurs.**

In some cases the affected service will be offered to tender in these circumstances.

7.3 **Establish which staff will transfer out.**

The regulations apply to all employees, including those employed on a part-time basis, and those employed on fixed-term or temporary contracts. Only employees employed by the department immediately prior to the transfer, and in the specific area concerned, will have protection under the regulations and will transfer under TUPE. This excludes those on contracts for services and agency staff. Employees absent from work, for example, on long term sickness absence, maternity leave, career breaks etc are included.

Only employees, who are employed in the undertaking, or the part of it being transferred, can be transferred under TUPE. Normally this will be clear from their contract of employment. However, where it is not, other factors such as the amount of time spent in that part of the business, the value of that time and how costs have been allocated can be considered. Employees on secondment or temporarily assigned to the area transferring will not transfer. Employees whose substantive post is in the transferring area, but who are on secondment to another part of the organisation will transfer. Careful consideration needs to be given to fixed term employees and if they should transfer. Terminating their contracts could be seen as discriminatory and unfair unless there are clear business reasons unconnected with the transfer.

Employees transfer if the majority (50%+) of their work is transferring. For example, if someone is providing support to two different client groups and the provision of support to just one group is outsourced, there would need to be discussions with the employee to agree what percentage of their time they are spending on the outsourced client group to see if they should be transferred or not.

Where an employee objects to a transfer for personal reasons (i.e. if the objection is because the transfer poses substantial and detrimental change to their contract of employment) are legally regarded as having resigned. However, it is best practice to accommodate the employee by redeploying them where possible and ensuring that we have discussed their issues with them.

7.4 **Consult with Representatives at the earliest opportunity.**

Under the TUPE regulations there is a statutory duty to consult and inform the "appropriate representatives" i.e. Trade Union representatives prior to the transfer taking place. Failure to comply with this regulation could result in a complaint to an Employment Tribunal, which if upheld could result in compensation of up to 13 weeks' pay for each affected employee, plus all the associated legal costs.

Consultation should include giving information on the following:

- The fact that transfer is proposed
- The approximate date of transfer
- Which group/individuals are proposed to transfer

- The reasons for the proposed transfer
- The legal, economic and social implications of the transfer for the affected employees
- The measures the employer will be taking in relation to the effect of the transfer on the affected employees i.e. any action in connection with the transfer which will affect employees (e.g. pensions arrangements, reorganisation etc)
- Numbers of agency workers temporarily working for the council (including if there are none); the areas in which they are working and the type of work they are doing.

There is no formal time limit for consultation, although it should take place long enough before the transfer, to enable a meaningful consultation to take place. A timeline should be prepared which will allow for a **minimum** of 30 calendar consultation. Please refer to the council's [Organisational Change Policy in respect of conducting a consultation process](#) – [add link](#). It is important that discussions take place at the earliest opportunity, as soon as the facts indicating a transfer emerge. Representatives and employees should also be kept informed of progress throughout the transfer process.

Employees should initially be informed of the transfer by their manager, not by Union/Employee representatives. Therefore it may be appropriate to inform and consult with the trade union and employee representatives on a confidential basis initially.

7.5 **Consult with Employees at the earliest opportunity.**

Under the TUPE regulations there is a statutory duty to consult and inform "affected" employees prior to the transfer taking place. This duty applies both to the old and new employer. Employees should be provided with the information detailed above (as for union/employee representatives). It is also recommended that 1:1 meetings are scheduled with all the affected employees to allow discussion of individual implications. There is no requirement to give employees 'notice' of the termination of their contract as it is continuing with a new employer, nor is there a legal requirement for a minimum consultation period. The council has agreed a minimum consultation period of 30 calendar days with the recognised unions. It cannot be emphasised enough though that the success of a TUPE transfer relies on a constructive dialogue with the Transferors.

It is essential to confirm the consultation and potential TUPE in writing to the employees and the trade union representatives.

Transfers can create a great deal of uncertainty and anxiety among employees and to ease this communication is important.

Ideally one should be held after the first formal consultation meeting and employees should be told (as far as practicable):

- what is happening
 - about their rights in a transfer situation
 - about any formal consultation which is taking place with trade unions or other representatives
 - about the timetable
 - about processes for keeping them appraised of the situation
 - about the opportunity to raise any personal concerns on an individual basis with Trade Unions.
 - One to one meetings with managers and opportunity to raise any individual concerns
- At least one more should be held shortly before the transfer. It may be appropriate for the new employer and union representatives to attend on this occasion. The briefing should focus on the following matters:
 - the outcome of the consultation process
 - what is happening
 - when the transfer will take place
 - details and information about the new employer
 - reassurance about their future and their terms and conditions of employment
 - confirmation that they will continue to be employed on their existing terms and conditions
 - the new employers attitude to union recognition
 - whether any redundancies are likely to take place post transfer and if so, the process that will be followed
 - confirm if a recruitment freeze is in place
 - exchange of vacant post, consultancy and agency staff data
 - the situation regarding pension rights and if appropriate what arrangements the new employer is going to make to preserve existing pension rights
 - the position regarding discretionary terms of employment and other previous custom and practice
 - reminding individuals of their right to object to the transfer and the outcome of this (i.e. resignation, redeployment etc)

- confirmation that all those affected will receive a letter confirming that the transfer is going ahead
- arrange for the new employer to prepare and send a “welcome” letter to transferred staff

Employees can also be signposted to the [Frequently Asked Questions](#) document

7.6 Exchange employee data with the new employer

The Information Commissioner’s Office has produced a Data Protection good practice note – disclosure of employee information under TUPE (on the Information Commissioner’s Office website – add link). Release of any personal information must only be for use in preparing evaluation of assets and liabilities and should be kept confidential, (not revealed to other parties), and all information should be returned or destroyed after a bid has been submitted, or it is decided not to proceed.

All personal employee information that is provided to new contractors or prospective contractors should adhere to the data protection code (part 2 on employment records). Therefore, where information about employees is required, individuals should not be identifiable by names, job titles etc.

Therefore the first stage data supplied should be anonymous.

Consent must be gained from employees before identifiable data can be released to the new or prospective employer. Data should also be checked with employees for accuracy. If employees do not give consent discussions need to be held to understand why and if they are objecting to the transfer or not.

Once the transfer is finalised, full employment records can then be passed over to the new employer. Before passing over personnel files, employees should be advised of this and given the opportunity to check that the information contained within their files is up to date and accurate. Data must be exchanged no later **than 2 weeks before** the transfer date. The transferring employer may face a fine if they fail to disclose data to the new employer.

The new employer should be provided with all the relevant employment details for the transferring employee to enable them to prepare for the employment of the transferring staff and familiarise themselves with the terms and conditions of employment which will transfer with the staff.

Data provided will include:

- Employee number
- Job title
- Date of Birth
- Working location
- Local Government continuous service date
- SBC continuous service date
- Hours of work per week
- Method of payment (i.e. monthly)
- % of time spent working on activities which are being TUPE'd
- Actual annual salary
- Pay scale and point
- Regular car user (Yes or No, if Yes then £)
- Car loan or any other loans
- Regular honoraria or any other payments i.e. first aid.
- Holidays per annum
- Pension member (Yes or No, if Yes then % personal contribution)
- Conditions of Service (i.e. JNC, Soulbury, Teachers etc)
- Disciplinary action which is un-spent
- Details of any grievances in the last 2 years.
- Sickness for the current year
- Work permit status
- Nationality - Do you hold conditions to employment? Yes or No
- DBS/HCPD required/status/last cleared
- Details of any known allegations or safeguarding concerns

Documentation we hold for proof of right to work (Asylum and Immigration) must not be passed to the Transferee as this would be a breach of data protection. We need to advise the transferee if anyone who is TUPE'd out would require sponsorship. We must also notify the Home Office that we are no longer sponsoring the employee and that the Transferee has taken over sponsorship. The Transferee must obtain their own copy from all new

employees and comply with specific current requirements under immigration law at the time and set themselves up as Sponsor if required.

7.7 **Details of terms and conditions of employment**

It is best practice to provide the new employer with written notification of all the rights and obligations in relation to transferring employees in good time. This includes all terms and conditions (whether express or implied), plus copies of policies and procedures. It should be made clear which are contractual and which are non-contractual.

7.8 **TUPE and pensions**

Pensions are an area of concern for employees who are facing a TUPE transfer and the sooner that Pension uncertainties can be resolved the better.

The Transfer of Employment (Pensions Protection) Regulations 2005 provides some protection for pensions in TUPE situations. The regulations state that the new employer must either:

- A) Participate in the Local Government Pension Scheme as an admission body in the Fund in accordance with the provisions of the Local Government Pension Scheme (Administration) Regulations 2008, or
- B) Provide a 'broadly comparable' pension scheme.

If Option A is pursued by the Transferee, this is agreed through an Admission agreement which is a legal document. In effect, the new employer joins the LGPS. The new employer can decide if the pension scheme will be open (available to people joining the transferring team after the transfer) or closed (only available to those people who are members & employees at the time of transfer). The new employer must comply with various administrative requirements and make any payments that are required under the regulations - this may include an annual bond. At the end of the contract, the admission agreement will terminate and a cessation valuation will be completed. If this valuation reveals a deficit the new employer will be expected to make payments to the fund. If it shows a surplus, there are no additional payments and no refund. The service area involved in the transfer out of employees will have to pay a sum for the actuary to produce the report which sets out the level of employer contribution and bond required. Any additional work carried out by the Actuary will result in further charges. In addition, the cost of the pension's team and legal department time is also recharged to the service area. The project team will need to ensure they liaise with the LGPS and other pension representatives providing any relevant information within the timeline.

If Option B is pursued, bidders are required to confirm that they have a current passport which is up-to-date from the Fund Actuary. The new employer is responsible for communicating details of pension provisions to the eligible employees and offering membership of that arrangement on transfer of employment. Relevant employees should be given no longer than 3 months to decide whether or not to accept the transfer of their

fund benefits. This option may need to be referred to the Fund Actuary for them to determine if the scheme is broadly comparable and would incur a charge.

7.9 Pension Process – how does it work as SBC?

- i. As soon as the list of staff is known, this should be sent by the HR project lead, in an excel spreadsheet, to pensions at (e mail address). It may not be known at this stage who the bidders for the contract will be, Pensions will proceed on the basis of admitted body status at this stage until the successful bidder confirms which pension provision they wish to opt for. The spreadsheet must contain name, NI number, and current hours and pay (full time equivalent).
- ii. The HR project lead should obtain required information from the pensions schemes and supply this to the bidders/new employer.
- iii. The HR Business Partner will provide anonymised pension details to the bidders/new employer (see data to be provided to bidders).
- iv. Pensions will load the spreadsheet (step 1 above) into a template for the Fund actuary and submit it to them with pay and membership details for each individual concerned.
- v. The results will be back from the Fund actuary within 2 weeks. The letter from the actuary will confirm the current funding deficit in relation to the group transferring, the new employer contribution rate for the new employer and the indemnity bond level.
- vi. These details will be interpreted first by the Finance project lead and then forwarded to the service letting the contract.
- vii. Once the successful bidder is known, the HR Business Partner should contact pensions with the full name and address of the new employer or, if admitted body status is not to be applied for, the full details of the scheme to be offered by the new employer.
- viii. If admitted body status has been applied for, an admission agreement will be drafted by legal/pensions and forwarded for approval by the new employer, approval of the draft should be returned with a copy of the indemnity bond and the final list of staff transferring.
- ix. If the new employers own scheme is to be used, the Fund actuary will either confirm that it is comparable or if it is not, the level of compensation required to be invested by the new employer to compensate the staff for loss of pension rights.
- x. The final sealed copies of the admission agreement will be signed by the Director of Finance and Resources and copies forwarded for signing to the new employer.

It is essential that a pensions contact is provided & maintained in the event of a TUPE in of employees and that this requirement is included in the TUPE agreement. This requirement should also be included in tendering documents.

7.10 **Maintenance**

Personnel files transfer to the Transferee. These are prepared in accordance with the local practice instruction. SBC maintains a master file as if would for any leavers and within this any applicable TUPE correspondence should be kept. The HR Business Partner team should archive the TUPE checklists and correspondence appropriately.

7.11 **Liabilities that will transfer to the contractor.**

The Transferor should also be informed of any liabilities that will transfer. Examples of statutory liabilities that will transfer include: unfair dismissal compensation, equal pay claims, sex and race claims, maternity rights claims, disability claims, religion/sexual orientation etc claims, health and safety legislation, past breaches of contract, outstanding expenses, holiday carry-over, outstanding overtime payments, arrears of wages etc. Liabilities for criminal offences will not transfer. It is also good practice to exchange information on financial liabilities such as car loans, further education loans, bicycle loans etc.

7.12 **Occupational Health/EAP**

The Occupational Health/EAP provider should be advised of transferring employees to allow for any changes to contract provision that may be required.

7.13 **Notify employees with the date of the transfer.**

When arrangements for the transfer are complete, and the date of transfer is confirmed, you should notify employees of the date when their employment with Slough Borough Council will cease, and of the final arrangements. Please refer to the Confirmation of TUPE final letter. [Insert final letter link](#). At this point the Line manager should complete either Leaver Forms or a spreadsheet to notify all concerned within the council.

8. Transferring into the Council

8.1 Establish whether TUPE applies.

The application of TUPE depends on the particular circumstances of each case. Generally, it will be wise to assume that the regulations apply to any transfer. The principles of TUPE should be applied where staff are being contracted in to the council. This could include situations where a service is contracted back "in house".

8.2 Establish which staff will transfer in.

It will be Slough Borough Council's duty to take over the contracts of employment of all employees permanently assigned to the section of the external organisation being transferred. In order to comply with this, the organisation which is transferring staff must provide the council with a definitive list of staff who are considered to be affected by the transfer. SBC may need to clarify or challenge the list of staff, if it believes that it does not accurately reflect the business transferring to it.

The transferring organisation should also inform the council if there are any formal objections to the transfer and what the outcome of these objections will be. For example resignation, redeployment within the current employer, etc.

8.3 Identify the terms and conditions of the transferring employees

It will be the council's responsibility to ensure that the new employees are in the same contractual position as they would have been had their employment not transferred. The transferring employer must inform the council of the transferring employee's terms and conditions of employment, and details of any current formal procedures that the employees may be subject to.

It should also be established which of the above are contractual and which are non-contractual.

Once the spreadsheet with details of the transferring employees terms and conditions are available the service area should complete an audit of these to check these can be introduced and to agree a way forward with miscellaneous matters such as accrued untaken holiday, PAYE deductions up to transfer date, expenses claims, pensions, loans, bonuses dependent of transferors profits, share options etc.

The receiving line manager in conjunction with the HRBP team must liaise with ODHR/Agresso to set up the new roles, pay elements etc within the Avarto structure.

It is important to note that the council will inherit any recognition agreements with the trade unions recognised by the old employer at the point of transfer. Any further negotiations which the Transferee has been unable to influence will not be considered as binding on the new employment.

Any role requirements that may need to be verified by the council as part of the transfer should be considered at this stage – such as the need for the council to complete its own DBS checks on transferring staff.

8.4 Establish whether there are any liabilities that will transfer

The old employer must inform SBC if there are any liabilities which may transfer. This could include unfair dismissal claims, equal pay claims, sex and race claims, maternity rights claims, disability claims, religion/sexual orientation etc claims, health and safety legislation, past breaches of contract e.g. arrears of wages etc. However, liabilities for criminal offences will not transfer. It may be prudent to agree sharing the cost of redundancies during the first year.

It may also be appropriate to consider seeking warranties and indemnities from the transferor. Warranties will help to ensure that disclosure of information about the transferring employees is true and accurate and that the transferor has not failed to disclose anything significant or relevant. Indemnities aim to cover any possible liabilities (unfair

dismissal claims, claims for failure to consult etc) arising from transferors acts or omissions pre transfer.

The council's ODHR team/legal services should be contacted for further advice on liabilities, warranties and indemnities.

8.5 **Consult with Union representatives**

The transferring employer is responsible for consulting with their appropriate representatives and stakeholders about the forthcoming transfer. However, it is best practice for the council to check that this is being handled by the transferring organisation as liability could transfer. It is good practice to build relationships with transferring employees and their representatives to help understand any concerns.

It may also be appropriate for the receiving line manager to become involved in the consultation meetings which should be led by the transferring employer. The purpose of this would be to respond to any queries about the council or the implementation of the transfer.

8.6 **Measures**

The council will also be required to inform the existing employer of any measures that will be taken in connection with the transfer that will affect employees so that the transferring employer can comply with their obligation to consult their representatives in this regard. "Measures" means any change that is to be brought about as a result of the transfer; i.e. pensions arrangements, reorganisation, working patterns, pay arrangements etc.

The council should also consult with its own representatives, in particular where the transfer may impact on existing SBC employees.

8.7 **Consult with employees**

The transferring employer is responsible for consulting and informing affected employees of the transfer. However, as above, it is best practice for the council to check that this is being handled by the transferring organisation as otherwise liability could transfer.

It may also be appropriate for the council to become jointly involved in the employee consultation meetings (which should be led by the transferring employer). The purpose of this would be to introduce the council as the future employer and to respond to any queries about the council or the implementation of the transfer.

The council should consider holding one-to-one and group meetings with employees to understand any concerns and to start to build a relationship. These meetings can be used to commence gathering personal details e.g. completing DBS applications, checking passports, band details etc.

As above, the council will also be required to inform the transferring employer of any measures that will be taken in connection with the transfer that will affect employees so that the transferring employer can consult accordingly.

Existing employees of the council should also be informed of the transfer in of additional staff and the provisions made to accommodate them.

8.8 Receive employee data from the Transferring employer

The transferring employer must provide the council with contractual, and supporting, information relevant to all the new staff who will be transferring to the council. This should include payroll information. In addition they should provide contact details for HR in the transferring company.

8.9 Occupational Health/EAP

The Occupational Health/EAP provider should be advised of transferring employees to allow for any changes to contract provision that may be required.

8.10 Confirm the transfer

The transferring employer will be responsible for confirming the details of the transfer to affected staff and their representatives. It is important that the council checks the eligibility of transferring employees to live and work in the UK, passport, driving licences, CRB checks etc. Failure to check the eligibility to live and work in the UK could result in a fine of £10k and the council being found liable.

Any employee joining SBC who comes into the Points Based System must have their identification logged with the UK Border Agency Sponsor Management System within 28 days of TUPE.

Employees who hold conditions to their leave to remain should be sent an appropriate letter which engages them in the responsibility process of keeping their records up to date.

CRB checks are currently non transferable. It is the receiving organisations responsibility to carry out this check, as with any new employee.

8.9 Induct transferring employees

On commencement of employment the transferred employees should receive the relevant induction process including the Corporate Induction. Consideration should be given to team-building events and training and development needs.

Useful Contacts

Organisation	Website Address	Type of Information Available
Dept for Business Innovation and Skills (formerly DTI, BERR)	http://www.berr.gov.uk/files/file20761.pdf	A guide to the 2006 TUPE regulations for employers, employees and representatives.
Office of Public Sector Information	http://www.legislation.gov.uk/uksi/2006/246/contents/made	Statutory instruments
Office of the Deputy Prime Minister	http://www.communities.gov.uk/documents/localgovernment/pdf/134855.pdf	ODPM Code of Practice on Workforce Matters in Public Sector Service Contracts (rescinded 23 March 2011, but still applies to contracts in force at that date)
Local Government Employers	http://www.lge.gov.uk/lge/core/page.do?pageId=119741	HR implications of procurement in local government.
Information Officer (Data Protection)	http://www.ico.gov.uk/upload/documents/library/data_protection/practical_application/gpn_disclosure_employee_info_tupe_v1.0.pdf	Guidance on data protection in relation to TUPE.
United Kingdom Border Agency – Immigration Asylum & Nationality Act 2006	http://www.ukba.homeoffice.gov.uk/employers/ http://www.ukba.homeoffice.gov.uk/workingint/heuk/	Guidance and information on the Law, sponsorship and affected nationalities

Frequently Asked Questions for Employees Transferring out

	QUESTION	ANSWER
1	What is TUPE?	<p>TUPE is the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). They implement the European Community Acquired Rights Directive (77/187/EEC, as amended by Directive 98/50 EC and consolidated in 2001/23/EC).</p> <p>The TUPE Regulations ensure that employees' terms and conditions are preserved when a business or undertaking, or part of one, is transferred to a new employer.</p> <p>The Government has agreed that the transfer of employees from Councils to a new employer will act as a transfer governed by the provisions of the TUPE Regulations.</p>
2	When does TUPE apply?	<p>Subject to certain qualifying conditions, the Regulations apply:</p> <ul style="list-style-type: none"> a) when a business or undertaking, or part of one, is transferred to a new employer, or b) when a 'service provision change' takes place (for example, where a contractor takes on a contract to provide a service for a client from another contractor) <p>These two circumstances are jointly categorised as 'relevant transfers'.</p>
3	How are transfers from the public sector to the private sector treated?	<p>These are covered by the regulations in just the same way as transfers between private sector employers.</p>

4	I have heard of the terms transferor and transferee – please can you explain who these are?	The transferor is the 'old' employer and the transferee is the new employer i.e. the company that wins the contract for services.
5	Under the TUPE Regulations what actually transfers to the new employer?	All obligations in relation to employees which were the responsibility of the transferor become the responsibility of the transferee who is said to 'step into the shoes' of the transferor. Consequently all existing contractual terms whether expressed or implied and including terms incorporated from a collective agreement will transfer. Collective agreements in place at time of transfer will be honoured for duration of contract.
6	Does TUPE apply to all employees?	Yes, the TUPE regulations apply to full-time and part-time employees as well as those employed on fixed-term contracts of employment, provided their contracts extend beyond the date of transfer. It does not apply to agency staff though as they do not have a contract of employment. Employees whose substantive post is in the transferring area, but who are on secondment to another part of the organisation will also transfer. Seconded into the organisation affected by the transfer are not generally included in TUPE as their substantive post is elsewhere in the Council.
7	Can the new employer choose who transfers?	No, only employees who are employed in the undertaking or service being transferred can be transferred under TUPE. Employees absent from work, for example, those on long term sick leave or maternity leave, are included. Employees whose substantive post is in the transferring area, but who are on secondment to another part of the organisation will also

		<p>transfer.</p> <p>Secondees into the organisation affected by the transfer are not generally included in TUPE as their substantive post is elsewhere in the Council.</p> <p>Employees who work across two or more areas are less clear cut. The Council will work with employees in this situation to understand how much of their role relates to the affected area being transferred. The impact of their role will also be taken into consideration. However, in general if the majority of their work is transferring then the employee too will transfer.</p> <p>The Council will determine those affected and consult with the 'appropriate representatives' at the earliest opportunity.</p>
8	<p>I am about to go on maternity leave knowing that a TUPE transfer is likely to occur while I am absent. What will happen to me?</p>	<p>The fact that an employee may already be on maternity leave prior to and/or at the time of transfer makes no difference to their maternity rights. Clearly if you are affected by the transfer you will be informed at the same time as your colleagues. However, if you are unable to attend a face to face meeting, your manager will agree with you to consult by telephone or in writing and/or for a representative to attend any meetings on your behalf.</p>
9	<p>I am on maternity leave and a TUPE transfer is underway/has happened. What will happen to my pay?</p>	<p>The employee will be entitled to the same contractual maternity pay, had she continued to be employed by the transferor. Any remaining Statutory Maternity Pay and/or Occupational Maternity Pay will be paid by the new employer.</p>
10	<p>I am on long term sick leave and have been notified of a TUPE transfer. What will happen to my sick pay entitlements?</p>	<p>The employee will be entitled to the same amount of statutory and occupational sick pay, as if they have continued to be employed by the transferor. Any statutory sick pay and any remaining occupational sick pay will be paid by the new employer.</p>

11	What happens to me if I am transferred to another employer under TUPE?	When TUPE applies to the transfer of a team's work, it means that the contracts of employment of all staff employed within that area – that is your terms and conditions of service at the date of transfer - are automatically transferred to the new employer.
12	What protections do employees have under TUPE?	<p>The effect of a TUPE transfer is that transferred employees retain all the rights and obligations existing under their contract of employment with the previous employer and these are transferred to the new employer.</p> <p>This means that their previous terms and conditions of employment carry over to the new employer. The main exception to this rule concerns the treatment of occupational pensions (covered separately below).</p> <p>Accordingly, contractual terms and conditions of employment including the principles of pay are preserved by TUPE e.g pay dates. With regard to annual salary increases, the principle contractual terms apply. Please note that where the Transferee has not had the opportunity to influence any collective agreement negotiations relating to pay awards these will not be considered binding and will therefore not automatically transfer.</p> <p>Liabilities also transfer. This may include for example outstanding holiday and loans.</p>
13	Is continuity of employment broken by a TUPE transfer?	No. An employee's period of continuous employment is not broken by a TUPE transfer and, for the purposes of calculating entitlement to statutory employment rights, the date on which the period of continuous employment started would usually be the date on which the employee started work with the old employer. If there has been a previous TUPE transfer this date may be earlier. After a transfer it is as if the employees had always been employed by the new employer.

14	What happens to the service I've built up with the Council at the date of transfer?	The transfer does not break your service or your continuous employment. The date your continuous employment started with the Council; is the one on which any entitlement to statutory employment rights will continue to be based.
15	Will my continuity of service be maintained if I return to Local Government?	<p>Where an employee returns to Local Government as part of a TUPE transfer without a break between employments, all previous continuous service will be recognised for the purposes of calculation of entitlements to annual leave, and occupational sick pay. This is subject to the return of the original employer being within five years of the original transfer.</p> <p>If the employee returns voluntarily to local government, service continuity is broken.</p>
16	What terms and conditions are likely to transfer?	<p>The new employer is obliged to honour your contract of employment, which means that they must maintain your existing pay and conditions of service. Examples of Terms and Conditions likely to transfer are:</p> <ul style="list-style-type: none"> • Existing pay, method of payment and pay review date • Hours of work • Employment protection rights e.g. unfair dismissal, and redundancy rights • Annual leave entitlement and pay • Sick pay and sick leave entitlements • Statutory and contractual redundancy and severance entitlements • Collective agreements • Contractual benefits • Mobility and flexibility terms • Contractual personnel procedures/policies • Individual personnel files including disciplinary records and current formal warnings • Notice provisions

		<ul style="list-style-type: none"> • Continuity of service (for purposes of calculating annual leave, sickness and redundancy calculations) • Mileage Rates
17	Will any terms and conditions not transfer?	<p>There are some terms and conditions that won't be included in a TUPE transfer. These include things such as car parking, discounts with local organisations,</p> <p>With regard to annual salary increases, the principle contractual terms apply. Please note that where the Transferee has not had the opportunity to influence any collective agreement negotiations relating to pay awards these will not be considered binding and will therefore not automatically transfer.</p>
18	Will the reimbursement of professional fees be covered under TUPE?	Yes, if currently reimbursed.
19	Will the new organisation issue me with a new contract of employment?	There is no need for the new organisation to issue a new contract on transfer. However, it is normal practice for the new organisation to write to confirm that they are the new employer.
20	So, if I transferred under TUPE, I would take all my terms and conditions of service with me?	There is one exception; your pension rights are not transferred. However, the Government requires the Council to ensure your new employer provides access to a broadly comparable occupational pension scheme for your future service.

21	What happens to my SBC pension?	<p>Pensions are not currently included in TUPE provisions. However, the Council is committed to following the Office of the Deputy Prime Minister (ODPM) guidance on best value practice on workforce matters in local authority service contracts.</p> <p>The Statement of Practice 'Staff Transfers in the Public Sector' issued by the Cabinet Office in January 2000 and the Annex to it, 'A fair Deal for Staff Pensions' require that pension provision for public sector employees on a TUPE transfer must be protected in one of two ways:-</p> <ul style="list-style-type: none"> • The transferee employer should become an admission body of the Local Government Pension Scheme; or • By the transferee employer offering such employees membership of an alternative pension scheme which is certified as 'broadly comparable' by the Government Actuaries Department (GAD). <p>In a tendering process, the Council can express a preference for admitted body status, but cannot state that this is a requirement as this may restrict which bidders can meet this criteria and may not ensure the best overall deal for the Council.</p>
22	If the transferee becomes an admitted body of the LGPS what will this mean to my pension?	<p>Your membership of the LGPS continues. Employers have a few areas where they can express discretion over how the LGPS operates for their employees but this has little affect on the day to day administration of the pension.</p>
23	What if the transferee has a 'broadly comparable' pension scheme?	<p>Without knowing the details of such a scheme it is impossible to comment.</p> <p>When you are TUPE'd to another organisation the Council provides you with a 'deferred pensions benefit' this means that your pension is put on hold</p>

		<p>with your lump sum and other benefits, it will then increase according to the Retail Price Index (RPI) each year, until either you, transfer your pension to another organisations pension scheme or you retire and make a claim on your pension. The pension will not follow you to a new organisation unless it is transferred and it will cease as a final salary pension at the point of TUPE.</p>
24	<p>Can my terms and conditions of service be changed once I have transferred to the new employer?</p>	<p>The new employer is obliged to honour your contract of employment, which means that they must maintain your existing pay and conditions of service. However, they can alter them so far (but only so far) as they could have been altered by the Council (for example, changes to pay and annual leave negotiated with your representatives and/or changes to your job description on which you have been fully consulted).</p>
25	<p>Will terms and conditions be harmonised?</p>	<p>In general, only agreed changes, which would have occurred, even if the transfer had not taken place, are allowed. All employers have a duty to consult on changes they wish to make. An employee has the same right to object to unilateral contractual changes after the transfer as he or she had before it.</p> <p>The TUPE Regulations place limitations on the ability of the new employer to vary terms and conditions following transfer. Essentially the new employer cannot worsen the terms and conditions of transferring employees unless they can demonstrate that there is an economic, technical or organisational (ETO) reason. Government guidance and recent case law suggests that worsening an employee's contract for the purpose of achieving post-transfer harmonisation cannot be justified by an ETO reason.</p>

26	Is there a time limit or period after which TUPE terms are no longer valid?	No, a TUPE transfer will transfer you to a new organisation on the terms that are beneficial and agreed by all parties. They form your terms and conditions of employment and should not change without your prior agreement.
27	After a period of time, can a new employer change the terms and conditions of employment by using methods such as 'the consultation' process themselves?	Yes they can, but they cannot make any changes to your terms and conditions of employment that would place you at a disadvantage to other staff in the organisation. Similarly, they cannot make any changes to your terms and conditions of employment that you have not agreed to or are in agreement with, and they must also prove that any changes are not as a result of, or related to, the TUPE transfer.
28	What if the new employer dismisses me rather than employing me?	TUPE gives enhanced rights to employees who are dismissed before, or after, the transfer. Such dismissals would be automatically unfair unless they can be shown to have been either unconnected with the transfer or for a genuine economic, technical, or organisational reason (sometimes referred to as an ETO reason) entailing changes in the workforce e.g. redundancies, and the employer is acting "reasonably" in treating that reason as sufficient to justify a dismissal. If your new employer does dismiss you for one of these reasons, they must give you contractual notice, or pay in lieu of it, and pay you redundancy compensation.
29	What if I don't want to transfer?	The regulations allow for someone to opt out of the transfer by informing either your line manager or your proposed new employer. You should note, however, that this is likely to mean that you will be treated as if you had resigned, not as if you had been dismissed. There is no redundancy situation and therefore there is no entitlement to any redundancy payment.
30	Why can't I be made redundant if my job with my current employer no longer exists?	Your job still exists – it has simply transferred to a new employer – therefore you are not redundant.

31	Will trade union recognition agreements transfer?	Where the transferring employer recognises an independent trade union in respect of employees who are transferring to a new employer, the new employer would usually inherit any recognition agreements in place between the transferring employer and the recognised trade union.
32	Will the sickness records of individuals and other personnel information be passed to the new employer?	<p>Yes, sickness records will be passed to the new employer but only those relevant for current occupational sick pay and statutory sick pay purposes. Other personnel records, which relate to the contract of employment, will also transfer. These will include:</p> <ul style="list-style-type: none"> • Personal details, e.g. age, length of service, next of kin information, pay details • Offer letter • Statement of written particulars • Job Title and job description • Relevant training records • Accident report forms • Leave sheet to ensure retention of any carry forward • Eye test letter
33	What about any claims I have against my existing employer?	Any pre-existing claims which the transferring employees have against the Council would also transfer with the employees to the new employer. Any liability for a dismissal which was for a transfer-connected reason would transfer. Any claims for personal injury, any employment tribunal claims, common law claims (and indeed most claims) transfer also.
34	How and what will I be told about the transfer?	<p>Under the TUPE regulations there is a statutory duty imposed on the old employer to consult and inform the 'appropriate representatives' of all employees who are affected by the transfer, prior to the transfer taking place. The process of consultation with representatives must be undertaken with a view to reaching agreement on the proposal.</p> <p>The Council will tell you and your trade union or</p>

		<p>elected representatives:</p> <ul style="list-style-type: none"> • That a transfer is being considered and why it is being considered • The approximate date of transfer • Which group/individuals are proposed to transfer • About the legal, economic and social implications of the transfer • That your terms and conditions of service will transfer to the new employer (TUPE applies) • What differences, if any, it will make to you – changes in pensions etc • Whether you will be moving to new premises to work for the new employer etc • About any measures to be taken in connection with the transfer which will affect you • About any measures likely to be taken by the new employer that will affect you. • About numbers of agency workers engaged by the Council; the areas they work in and types of work they do.
35	<p>How much notice will I be given of a TUPE transfer to a new employer?</p>	<p>There is no legal requirement for a minimum consultation period. However, the Council has agreed a minimum consultation period of 30 calendar days with recognised unions. In most cases though this period will be considerably longer.</p> <p>There is no requirement to give notice of the termination of an individual's contract as the contract is continuing with the new employer.</p> <p>However, the Council will give as much notice as possible of any forthcoming TUPE situation.</p>

36	I was TUPE transferred into SBC and now wish to apply for a secondment opportunity within SBC. Will I remain on my current i.e. my TUPE protected terms and conditions or will SBC terms and conditions apply?	SBC terms and conditions would apply during the secondment period. This should be confirmed to you in writing in advance of you accepting the secondment opportunity.
37	Upon my return to my substantive post at the end of my secondment, would I remain on the SBC terms and conditions which applied during the secondment period?	At the end of the secondment period, you would revert back to your substantive post and your TUPE protected terms and conditions would apply.
38	What happens if the TUPE transfer means that I will be relocated to new offices that are further away from my home?	The new location must be communicated to employees as part of the information/ consultation process. In the situation where the change in location may be deemed to be a substantial change to the employee's detriment then the transferor will look to begin a redundancy consultation process with the employees that object to the new location. A 'substantial change' would be if the new office location means that the employee's journey would be a lot longer, more difficult or expensive.
39	Who can I contact if I have any further questions about TUPE?	<p>We appreciate that this period of major change can be very unsettling for some staff and you may require further support. In the first instance please speak to your line manager.</p> <p>If you are a member of a trade Union then you can also speak to them about your concerns.</p> <p>You may also wish to contact the Employee Assistance Programme if you wish to speak to someone independent of SBC.</p>
40	Where can I find out more information about TUPE?	<p>To find out more about TUPE please see the BERR website (Department for Business, Enterprise and regulatory Reform formerly the Department for Trade and Industry) http://www.bis.gov.uk/</p> <p>You may also want to have a look at the ACAS website http://www.acas.org.uk/</p>

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Appendix G: Organisational Change and Redundancy Checklist

This checklist should be used to help ensure that organisational change is managed professionally and consistently whilst minimising the risk to the Council.

Who	Before consultation commences:	Tick Complete	Date
Manager	Familiarise yourself with the following guidance <ul style="list-style-type: none"> • Organisational Change Policy • Redundancy Procedure • Redeployment Policy • Job Evaluation Scheme 		
Manager	Engage with your employees through informal consultation – seek views on proposals and consider other options that may be suggested and any other feedback. Develop a project plan and a business case for proposed changes. Include financial analysis and costs of changes. E.g. increase in job grades, redundancy costs, pension strain. Liase with HR and Finance representatives. Complete an Equality Impact Assessment. Note – when setting out timeframe and confirming date for implementation do not underestimate the time and resource that will be required including support from other services. E.g. progressing job evaluations.		
HR	Calculate redundancy sum and apply for retirement and pension calculations for affected employees.		
Manager	Seek appropriate authorisation before proceeding with your reorganisation. The business case to be presented in the consultation must be endorsed by CMT.		
Manager	Draft new job descriptions. Ensure all new posts or altered posts are graded through the job evaluation process. Ensure current job descriptions to be used in a job matching process are current and reflective of the potholder's duties.		

Manager/HR	Determine which employees/posts are likely to be affected due to the reorganisation and the likely impact. Complete job matching process and decision matrix.		
Manager/HR	Design and consult with Trades Unions the selection process that will be applied if required.		
Manager	Develop a consultation paper to include proposed changes, business case, and revised structure chart, job descriptions, person specifications etc. Liase with HR representatives.		
Manager	Ensure the minimum consultation period of 30 days is met.		
HR	Issue HR1 form to BIS if proposals are for 20 or more redundancies and copy to Trade Unions.		
HR	Issue 'Section 188' letter to Trade Unions if more than 20 redundancies. NOTE – this does not include the dismissal of FTC workers.		
Manager	Notify employees of potential redundancy situation (including absent employees). Advise employees, Trade Union Representatives of the date of the first group consultation meeting at least 5 working days before.		
Manager	Issue Consultation paper to affected employees (including absent employees). Write to affected employees to advise if they are at risk of redundancy and/or the impact of the proposed changes e.g. ring-fenced or restricted competition to apply and include estimated severance sums if possible/applicable. Where possible meet with employees at risk of redundancy individually before group consultation to give them some time to absorb the information and be prepared. Publish consultation paper on Insite.		
	During consultation:		
Manager/HR	Hold first group consultation meeting.		
Manager	Set up and hold regular one to one individual meetings with directly affected employees and those who request it during the consultation period.		
Manager	Issue redundancy, retirement and pension calculations to affected employees if not already actioned.		
Manager	Seek expressions of interest for Voluntary Redundancy.		
Manager with HR	Carefully consider any counter proposals from employees.		

	After the End of Consultation:		
Manager/HR	Consider any job matching appeals and confirm outcome to employee.		
Manager	Once all responses have been considered circulate an end of consultation report to employees (including absent employees), Trade Union. Publish on Insite.		
Manager/HR	Arrange and hold end of consultation meetings for employees who remain at risk of redundancy. Provide 5 days notice of meeting.		
Manager	Confirm outcome in writing to affected employees: <ul style="list-style-type: none"> • VR has been accepted/not accepted • They will be appointed/assimilated into a post in the new structure • Give notice of redundancy 		
Manager/HR	Hold selection process as required.		
Manager	Issue letters of assimilation/appointment/redundancy to all affected employees.		
HR	Arrange for Appeals Panel to address any appeals against redundancy and issue a notification of appeals meeting.		
Appeals Panel	Confirm redundancy appeal meeting decisions.		
Manager	Ensure any employees who have been issued notice of redundancy are placed on the Redeployment Register and have completed a redeployment skills profile form.		
Manager/HR	Confirm new structure and implementation date to HR and arrange for any contract amendments/transactional work to be completed by Arvato.		
Manager	Review success of changes against targets, aims and objectives - continuous		

Flowchart to be inserted

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Appendix H: Individual Consultation Guidance

Individual consultation must take place whatever the size of the proposed redundancy. Meetings will be conducted by the Manager leading the change with support from the HRBP/team.

Managers should acknowledge that this is likely to be a difficult process for the employee. The primary purpose of the individual meetings will be to give the employee the opportunity to meet confidentially on a one to one basis to discuss their individual circumstances. In addition, to make sure that any views the employee has on alternatives to redundancy are explored.

The meeting should include the following:

- confirmation of receipt of consultation documents and to ensure the documents are understood. i.e. in terms of the process and how to respond to the consultation process etc.
- the severance payments in the event that the redundancy is confirmed. Give the employee the opportunity of putting any alternative.
- ideas on how the redundancy situation could be avoided. Explain how the redeployment process will work, i.e. completion of Redeployment Skills Profile Forms, vacancy bulletins.
- that employees are encouraged to use the confidential employee counselling service on an individual basis. Explore what other help may be provided to the employee to assist them. Advise that consultation is a two way process and that other meetings as necessary can be arranged to explore all relevant areas.

Notes should be taken of the meeting and any agreed actions.

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Appendix I: Local Government Modification Order

Offer of a new job with a modification order body

If the Council gives the employee notice of redundancy and before the dismissal takes effect the employee accepts an offer of employment from another body specified in Part II of Schedule 2 of the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999, the individual will lose entitlement to a redundancy payment.

This only applies where the relevant body makes the offer of a new job before the end of the old contract and the employment starts within the four weeks after the date of redundancy.

The Council requires written confirmation from the employee that they will not be taking up any other employment covered by the Modification Order within four weeks after the date of redundancy.

Note: under s.146 of the ERA if the contract ends on a Friday, Saturday or Sunday, it is treated as ending on the Monday of the next week.

Bodies listed under the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999

The Modification Order originated in 1983. It has been amended on numerous occasions and was reorganised and re-issued in 1999 as The *Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999*. This has also been amended a number of times since by amending regulations and by selective primary legislation.

This list is split into two parts. Part I (Schedule I of the Modification Order) lists bodies which in the main continue to exist. Part II (Schedule 2, Part II of the Modification Order) includes all of the bodies in Part I (see section 1) plus a number of further bodies (sections 2-9) which are no longer in existence.

Bodies listed in Part I must take into account continuous service with bodies listed in Part II when calculating entitlement to redundancy payments.

The bodies listed in sections 2-9 of Part II which still exist are not bound by the Modification Order.

Please refer to [\(insert link\)](#) for the list of the bodies covered by the RMO.

LGA's Modification Order guidance http://www.local.gov.uk/web/guest/employment-relations/-/journal_content/56/10171/3738844/ARTICLE-TEMPLATE

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Appendix J: Approval for Business Case for Organisational Change

Approval for Business Case for Organisational Change

Directorate/ Service Area	
Director:	
Date:	

Finance Sign off and Comment	
This section should confirm that budget provision exists for the proposals	
Signed Finance	Date

HR Sign off and Comments	
This section should confirm that implications around structure(s), equity, job evaluation and overall organisational design have been considered, that employees have had the opportunity to provide feedback through informal consultation, how changes will be monitored and reviewed to assess if the purpose/targets/aims of the change has been achieved.	
Signed HR	Date

CMT sign off and Comments

This section should confirm that the proposals are in line with strategic intent and will support the delivery of the Corporate Plan, Wellbeing strategy and overall 'One Council' direction

--

Signed

Date

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Appendix K: Equality Impact Assessment Template

Directorate:

Section responsible:

Officers responsible for Screening:

Date of Screening:

Subject matter:

NOTE

This Equalities Impact Initial Screening is a draft version based upon an assessment of impacts on employees at the start of the consultation process. Throughout the consultation process employees are able to respond with any queries and can raise any concerns about equalities impacts. These will be looked at thoroughly before any final decisions are made.

Managers are reminded of the statutory rights and protections (Equality Act 2010) in relation to pregnant employees or those on maternity leave.

Reason for the reorganisation

Consultation and opportunities to influence the proposal

Communication with staff

Communication with affected staff

Ongoing communication with staff

Responses to the consultation

Baseline data from equalities monitoring of existing staff

Staff numbers	Total	
Gender	Male	
	Female	
Ethnicity Breakdown	Total	
White		
British		
Irish		
Any Other White Background		
Mixed		
White & Black Caribbean		
White & Black African		
White & Asian		
Any Other Mixed Background		
Asian or Asian British		
Indian		
Pakistani		

Bangladeshi		
Sikh		
Any Other Asian Background		
Black or Black British		
Caribbean		
African		
Any Other Black Background		
Chinese or Other Ethnic Group		
Chinese		
Other Ethnic Group		
Non Disclosure		
Blanks		
Disability		
	Yes	
	No	
	Not stated	

Classification of the effects on staff of the restructuring proposals

The effect on staff of the restructuring proposals can be classified as minor or significant. A **minor effect** on a staff member would be a change in line management, a change in job title or a change in number of direct reports or scope of management within the general constraints of the individual's substantive role. Deletion of an existing post but directly matching to a broadly similar post (matching requires 70% JD match) is also considered to constitute a minor effect.

A **significant impact** would be the deletion of a substantive post without being matched to an alternative post in the new structure or being ring fenced or prior considered for a competitive interview where the number of similar posts proposed is less than the number of substantive post holders.

Mitigating the effects on staff

As mentioned above, throughout the consultation period all affected staff will be offered 1-2-1 meetings at which they can seek clarification of the process to be followed, the appeals process or options for redeployment. In accordance with the adopted policy of the Council all staff who are displaced and without an identified post on the proposed structure will be guided through the redeployment process and provided with assistance to access vacant posts likely to be of interest following an assessment of the skills match questionnaire.

Additionally staff will always be reminded that they have access to the Occupational Health employee counselling service should they consider it beneficial.

Assessment of Impact

The assessment of the impact on staff is based upon the details available at this time, i.e. the commencement of the consultation phase. The categorisation of adversely affected staff may change following the conclusion of the consultation as staff exercise their right of appeal against the matching and prior consideration proposals.

		Minor Impact	Significant Impact	Neutral Impact	Reason
Gender	Women				
	Men				
Race	African				
	Black British				
	Black African				
	Caribbean				
	English				
	Indian				
	Pakistani				

	Polish				
	White & Asian				
	White & Black African				
	White & Black Caribbean				
	White British				
	Other White Background				
	Other Asian Background				
	Other Mixed Background				
	Sikh				
Disability	Yes				
	No				
	Not Stated				

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Appendix L: Job matching decision matrix

Organisational change programme:

Job matching panel members:

Date of matching panel:

Job title of new post:

Job title of current/existing post (where applicable):

Note – must be up to date and current JD that is compared with the new post

Criteria	2	1	0	Notes
Overall Purpose				
Main duties/ responsibilities				
Size of Post £ people/assets				
Status (Grade)				
Skills/Expeience/Competencies				
Overall score (7/10 plus is a match)				
Does restricted competition apply?				

This form lists details of all existing posts compared with new post, and decision re matching

Post Title	
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Post No:		Level	
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Attached: New Job Description YES / NO

POTENTIAL COMPARISONS (From Outgoing Structure):

Name	Post Title	Level	JD Attached	PS Attached	Matched	Not Matched	Restricted competition

Any secondment/acting up employees in post for 12 months plus – consider for restricted competition. See Organisational Change Policy.

Organisational Change Toolkit
Appendix M: Expression of Interest Form

