

# Human Resources and Organisational Development Organisational Change Policy

Version 1.0

Implemented: October 2020

# INDEX

1. Introduction
2. Different levels of change
  - Minor Changes (BAU or temporary changes)
  - Changes to contractual terms with no risk of redundancy
  - Changes to contractual terms with risk of redundancy
3. Formal Consultation
4. How posts will be filled
  - Direct matching
  - Pooling and competitive appointments
  - Ring Fencing
  - Remaining unfilled posts
  - Placement via managed moves
5. Redeployment
6. Trial Periods
7. Selection for redundancy
8. Fixed term/temporary employees
9. Appeals
10. Roles and responsibilities

Further information and advice

Appendix 1 – Appeals Procedure



# 1. INTRODUCTION

- 1.1 Tower Hamlets aims to provide best value services to our community and regards its staff as its most important asset to do this. Changes to service delivery within the organisation are inevitable, and the council wants to accommodate these changes in a positive way, wherever possible.
- 1.2 Restructuring and reorganisation is constant within local government, often arising from changing service needs and budgetary pressures. Recognising that change often causes instability for the individual, team and organisation, this procedure sets out a clear and rapid method of dealing with organisational change whilst continuing to deliver services and avoid compulsory redundancy wherever possible.
- 1.3 This policy applies to all staff directly employed by the Council. It does not apply to employees in schools under local management, to Chief Officers, or to workers employed through an agency.
- 1.4 Supplementary guidance for managers should be referred to in applying the procedure.

# 2. LEVELS OF CHANGE

- 2.1 There are various levels of change that require different approaches and involve different processes both for consultation on the change and for moving forward with the change itself.
- 2.2 All levels of change require differing levels of engagement with Trade Unions (TU) and affected staff depending on the nature of the change. This policy sets out three levels of change and it is essential that managers, with advice from their HR Business Partner, consider which of the three levels applies. The levels are set out below:
  - Minor or Business as Usual change
  - Contractual changes (no redundancies)
  - Contractual changes (with risk of redundancies)
- 2.3 **MINOR CHANGES (Business as Usual or temporary)**
  - 2.3.1 This can include changes to the allocation of duties, changes to line management, or location within the borough, or to provide cover (e.g. for sickness absence cover or surges in workloads, changes to IT, and piloting new ways of working.)
  - 2.3.2 By their nature, such changes often occur at short notice and can be reasonably expected to improve systems and processes. They do not impact an employee's role substantively or result in potential redundancies and these minor changes are not covered by this policy.
  - 2.3.3 Deletion of vacant posts which have not been filled for more than 12 months or have been covered by an agency worker during that timeframe, may also be

deleted without the requirement for a formal consultation of the change in the establishment. Managers should communicate with the TU's and with affected teams where the vacancy is located to advise of them of the removal of the vacancy.

- 2.3.4** The principle of being reasonable and considering business requirements, applies. Guidance on this is covered in the Managers Guidance document.

## **2.4 CONTRACTUAL CHANGES WHERE THERE ARE NO POTENTIAL OR ACTUAL REDUNDANCIES**

- 2.4.1** This can include permanent changes to working practices or times e.g. introducing 'shift' working or a change in working hours and substantial changes or additions to duties and JD's

- 2.4.2** There is a requirement to consult with the TU and affected employees. The consultation does not need to follow the format and timeframes described in Section 2.5 below as there is no minimum period of consultation; however, we will ensure, that there is a consultation period of 2-4 weeks depending on the nature and scale of the changes.

- 2.4.3** Management will inform staff of the proposed change and the reasons why the change is required and will seek to reach agreement with each employee on new contract terms.

- 2.4.4** Where individual agreement is not forthcoming, the required statutory notice to amend the contractual element will be given.

- 2.4.5** Employees may be accompanied by a trade union representative or work colleague at meetings with management.

## **2.5 CONTRACTUAL CHANGES WHERE THERE ARE POTENTIAL REDUNDANCIES**

- 2.5.1** This can include reductions in numbers not covered by natural wastage, the closure or reduction of work in services or locations, significant permanent changes to location or changes to jobs that require substantially different skills.

- 2.5.2** These changes require formal consultation using the stages set out below. In addition to moving employees into new roles, structures and locations, managers will need to consider a range redundancy avoidance measures. This includes the placement/redeployment of employees who have no role in the newly restructured business area.

- 2.5.3** Where it is intended to make changes that may result in a potential or actual redundancy, this will be shared with the relevant recognised trade unions.

- 2.5.4** Managers should ensure that they work to at least required statutory timeframes for consultation. These are:

Formal consultation on changes which might result in redundancies:

- 30 days for 20 – 99 redundancies
- 45 days for 100 or more redundancies.

- 2.5.5** Where there is a risk of redundancy or actual redundancy there is a statutory requirement, where more than 20 redundancies are proposed, that consultation must start at least 30 days before any dismissals take effect, and 45 days before any dismissals take effect where more than 100 redundancies are made.
- 2.5.6** A consultation period commences **only** when full documentation on the proposed changes is issued to the employees affected and to the relevant union(s). Documentation will include details of the changes, such as proposed job descriptions, staffing structures, new rotas, etc. Where the change is major, such as a reorganisation of a large section or department, it may take longer to complete, and the consultation period may be extended.
- 2.5.7** The method of selecting staff into the new structures will be part of the formal consultation process. The method will be influenced by whether the total number of jobs is the same or reduced and whether the purpose and function of the jobs remain substantially the same (albeit sufficiently different from existing jobs to constitute potential redundancy). Consultation should consider direct matching into the new posts, 'pooling' for assessment interviews where employees may be suited to more than one of the new posts, ringfencing, placement to alternative roles outside the new structure but within the existing directorate and redeployment to other posts outside the new structure across the wider organisation.
- 2.5.8** A redundancy occurs when the employer dismisses an employee because there is a reduced need for employees to perform a particular kind of work. As soon as management is seriously considering a change which involves the dismissal on the grounds of redundancy of any employee, they will undertake formal consultation.

### **3. FORMAL CONSULTATION**

- 3.1** The purpose of formal consultation is to get feedback from the trade unions and employees on means of avoiding the dismissals, discussing alternative ideas for change, reducing the numbers of employees to be dismissed, and mitigating the consequences of the dismissals. Management will:
- 3.2 Complete Formal Statutory Processes**
- 3.2.1** In situations where proposals may result in 20 or more redundancies in a 90 day period, formal statutory notification must be sent to the Redundancy Payments Service (HR1 form) as well as formal notification to the trade unions setting out its duty to consult under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992.
- 3.3 Consult the relevant TU for the groups of employees affected**
- 3.3.1** Consultation will start when management provide the TU with a written statement containing the following information:
- i. reason for the proposals

- ii. number and description of employees at risk
- iii. total numbers at the establishment
- iv. proposed selection method
- v. proposed method of carrying out any dismissals
- vi. proposed method of calculating any redundancy payments
- vii. proposed date in which notice letters will be issued to impacted staff (this will also include issuing notice of early termination to any staff on fixed term contracts).

**3.3.1** Wherever possible, management should inform the TU ahead of formal consultation to avoid surprise and should consider involving the TU informally at an earlier stage (pre consultation).

**3.3.2** Invite the TU and employees to a meeting, which commences the formal consultation, shortly after the written statement has been given to explain the proposals and answer any immediate questions.

**3.3.3** Subsequently meet the TU and individual employees to hear and respond to their views. If the TU make any counter proposals, respond in writing saying what action is to be taken as a result, and explaining the reasons for that decision. Ideally all this should be done before the end of the formal consultation period.

#### **3.4 Consult employees impacted by the proposed changes**

**3.4.1** Particularly where there is risk of redundancy. You can do this via briefings, letters, email etc. Keep staff informed of progress and offer individual meetings.

**3.4.2** Staff may be accompanied by a TU representative or work colleague at consultation meetings with management.

**3.4.3** At the end of consultation employees who are directly matched to a new role will receive written confirmation of their new role and all remaining staff will be issued with formal notice of redundancy. Implementation to the remaining new posts in the restructured service will take place concurrently with the notice periods.

## **4. HOW POSTS WILL BE FILLED**

**4.1** A suggested method for filling posts during restructuring is detailed below. This applies to selective change and redundancy situations. In some situations, the ordering may be varied where it serves to mitigate the risk of redundancy or to retain required skills and experience. The method for filling posts should be discussed with the unions at the outset of the process and explained in the consultation documentation.

#### **4.2 Stage 1: Direct Matching**

**4.3.1** Where a post in the new structure is the same or substantially the same as the existing post. A direct match can be considered for roles within 2 grades up or down of the new post and where there is just one employee for the job, then the employee should be slotted into the job automatically, i.e., matched to the new

post without the need for an interview. As a guide, there must be at least a 70% match between the current and proposed job description and matching should be based on the main functions and activities of the roles.

#### **4.3 Stage 2: Pooling and competitive appointments**

**4.3.1** Where there is a post in the new structure which is the same or substantially the same as the existing post (as above), and is within 2 grades up or down of the new post and meet the 70% threshold for a direct match, but there are more employees who are eligible for the job than there are posts, employees will be subject to a competitive appointment process, i.e., they will each compete for the posts available. Selection will be based on specific criteria set out in the person specification and may comprise scoring of skills, knowledge, and abilities via interviews, tests or assessment centres appropriate to the grade and type of post being filled.

#### **4.4 Stage 3: Ring Fencing**

**4.4.1** Ring-fencing will apply to “at risk” employees whose posts are being deleted or where the role has substantially changed and where new roles have some similarity to their current post and are of the same grade or no more than two grades higher or lower.

**4.4.2** Ring fences will be constructed on the basis of unmatched staff having a potential claim on a new post because of their “at risk” status and the similarity with their current post and grade. Staff who are ring fenced will need to take part in any internal appointment process to assess their suitability for the proposed role. Again, ringfences will normally be within 2 grades up or down of the new post.

**4.4.3** In some cases, the ringfence stage may be opened out to all staff in scope of the restructure regardless of grade, where the intention is that this will mitigate the risks of compulsory redundancy and avoid staff having to go through multiple selection processes. This will be discussed with the TUs in advance of the restructure where the ringfence is applied in this way.

#### **4.5 Stage 4: Remaining unfilled posts**

**4.5.1** Any posts in the proposed new structure which are unfilled through direct matching, pooling and competitive appointment or through ring-fencing will only be advertised to the current service areas affected in the first instance.

## **5. REDEPLOYMENT**

**5.1** Employees who have not been appointed to posts via Stages 2 – 4 above have the right to be considered for redeployment opportunities across the wider organisation.

**5.2** Staff vulnerable to redundancy should normally have priority over others for vacant positions, with equal priority with those being considered for redeployment for ill health and disability reasons.

**5.3** A suitable alternative post is one that the employee has the qualifications (where essential/relevant) and aptitude to do immediately or will have in the near future with reasonable training.

- 5.4** Redeployees will be able to be considered for jobs within two grades for their current grade but will only be directly matched to roles which are of the same grade and which are a 70% match. Where staff are redeployed to a lower graded post the employee's pay will be protected for two years, in accordance with the Pay Protection policy. Salary protection will not exceed two grades below current grade of employee. Redeployees may be considered for higher graded posts, but must satisfy the essential criteria for the roles in order to be selected.
- 5.5** The Recruitment and Resourcing team will
- match employees to any suitable vacancies based on the information contained in the employee profile forms and JDs, with a trial period;
  - resolve issues in respect of redeployment,
  - Oversee the administration of the redeployment process.
- 5.6** The Senior HR Business Partner (with responsibility for Resourcing and Recruitment) will ensure consistency of application of the Council's procedures for redeployment.
- 5.7** HR Business Partners, in conjunction with Finance, will ensure that information on suitable funded vacancies across the Council is made available to those eligible for redeployment.
- 5.8** HRBP in conjunction with the Lead Manager will identify all potential suitable alternative roles within the Directorate which could be considered redeployment opportunities for staff at risk from the restructure at the outset of the restructure and seek DLT agreement to hold the vacancies for staff potentially displaced from the restructure. The search will include roles currently filled on an interim basis by agency staff.

## **6. TRIAL PERIODS**

- 6.1** A trial period of 4 weeks (or such longer period up to a maximum of 8 weeks as is agreed beforehand for the purposes of retraining) should be given for all redundancy redeployments.

## **7. SELECTION FOR REDUNDANCY**

- 7.1** Selection must be on the basis of factors which select the most capable employees to perform the jobs that remain. It must be done free of any bias that contravenes the Council's equalities policies. It will normally be done on the basis of selection assessment and/or interviewing those in the vulnerable group as though a recruitment process were operating, with judgements made by the interview panel on the basis of the essential requirements of the job, as illustrated by the written person specification.
- 7.2** We may need to choose individuals from within the selection pool if there are not enough volunteers for redundancy. These choices will be based on objective criteria such as:

- length of service (only as one of a number of criteria)
- attendance records
- disciplinary records
- skills, competencies and qualifications
- work experience
- performance records

**7.3** Volunteers for redundancy will normally be invited from amongst the group at risk of redundancy and from others whose jobs would provide suitable alternative work for those at risk of redundancy.

**7.4** Volunteers must be told that the final selection is at the discretion of the Council, and they will not be selected if this means that the Council does not keep the best people for the jobs remaining.

**7.5** This is a private and confidential matter between the manager and the employee. Where voluntary redundancy is refused, a written justification by the manager will be provided explaining why the role is critical to service delivery.

**7.6** The Council's decision is final and there is no further right of appeal against a decision not to grant voluntary redundancy.

## **8. FIXED TERM/TEMPORARY EMPLOYEES**

**8.2** In accordance with the The Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002, employees on a fixed term contract should be treated no less favourably than a permanent member of staff.

**8.3** In genuine redundancy situations, fixed term/temporary employees with more than 2 years' service receive the same entitlement to redundancy pay as comparable permanent employees.

**8.4** The specific nature of the contract should be considered when making decisions about whether fixed term/temporary employees are included in any selection processes related to organisational change. In cases where individuals have been engaged for specific purposes, i.e. covering absence/maternity cover, pending a restructure, specific projects or where they have less than one year's service at the point the structure is planned to go live, they will not be included.

**8.5** Managers should seek advice from HR when planning organisational change.

## **9. APPEALS**

**9.1** The appeals procedure is attached at Appendix 1. An employee can appeal against a manager's decision **not** to grant a direct match by outlining why they believe they are a 70% direct match to the role(s).

**9.2** An employee cannot appeal where they disagree with a match, since it mitigates a risk of redundancy.

- 9.3** The grounds for appeal will be only be considered where the employee considers the threshold for a direct match has been incorrectly assessed.
- 9.4** Appeals must be submitted in writing to the relevant Head of Service/Divisional Director, whichever is applicable, within 5 working days of receiving confirmation of the finalised direct match list and state why the decision was unfair or unreasonable.
- 9.5** If appealing against selection for redundancy, the employee must state why their selection for redundancy on the grounds that the procedure was not correctly followed or that the selection decision was unfair or unreasonable in all the circumstances. The employee must submit written notification of their appeal to the relevant Head of Service/Divisional Director within 5 working days of being notified of the selection decision.
- 9.6** Appeals not to grant direct match rights will be heard by an independent manager within the wider business area of change, that is not impacted by and/or involved with the change process, together with a representative from HR & Organisational Development. It is the responsibility of the relevant Head of Service/Divisional Director of the business area for change to nominate an independent manager to hear the appeal. Appeals will be heard within 10 working days of receiving the notice of appeal. The relevant Head of Service/Divisional Director will confirm the outcome of the appeal in writing 5 working days after the hearing.
- 9.7** Appeals against selection for redundancy will be heard by the relevant Head of Service/Divisional Director of the business area for change, whichever is applicable, together with a representative from HR & Organisational Development. Appeals should be heard within 10 working days of receiving the notice of appeal. The relevant Head of Service/Divisional Director will confirm the outcome of the appeal in writing 5 working days after the hearing.
- 9.8** The employee is entitled to be accompanied to an appeal hearing by a workplace colleague or an accredited trade union representative.
- 9.9** Where an employee's appeal is successful, the panel will liaise with the relevant Corporate Director to determine whether it is necessary (dependant on the circumstances of the case) to rerun the selection process or re-examine the specific selection criteria.

## **10. ROLES AND RESPONSIBILITIES**

### **10.1 Managers**

**10.1.1** Managers play a key role in the organisational change process. Once a need for change has been identified and agreed, managers will be responsible to implement the required change effectively.

**10.1.2** Key responsibilities are to:

- Ensure a business case is completed, signed off and approved by the senior leadership team of your business area (i.e. Directorate) before any commencement of changes begin.
- Ensure relevant budgets to fund the new changes and any potential redundancy costs are approved by finance. (see template for business case) – Annex 1)
- Access change toolkit materials and guidance on preparing for and managing change well.
- Consider measures to mitigate any adverse impacts of the change, including undertaking skills gaps analyses and commissioning training to build capability and capacity for working in the new services.
- Ensure early engagement with staff and trade unions in advance of formal consultation setting out the drivers for change, process to be followed and timescales for change.
- Follow the guidance and provisions in this procedure and supporting documents.
- Engage in a full and meaningful consultation process with staff and the TU's.
- Use the following criteria for consultation:
  - business rationale including costings
  - people impact
  - agreed schedule for engagement and implementation including timeline
  - Equality Impact Assessments (EIAs)
  - prepare the options for taking forward the change, outlining the benefits and implications of each. The level of detail will be dependent on the scale of the change to be made
  - seek approval for the change processes to be taken forward through your relevant senior leadership team meeting
  - determine and obtain project management support and expertise if required
  - establish a project team to include PMO, HROD, Finance, communication and other subject matter experts as necessary
  - ensure that, where appropriate, the following methods are used to engage with all employees involved and in scope of the change:
    - information sharing
    - consulting
    - negotiating
    - work in collaboration with the Corporate Equality Team to complete an EIA for the planned change.

## **9.10 Project Manager**

**9.10.1** Due to the size and complexities some organisational changes will require and benefit from project management expertise. The role of the project manager is to oversee the whole change exercise provide tools to ensure resources are appropriately allocated; risks managed and that the project is delivered within agreed timescales.

## **9.11 HR Business Partner (HRBP)**

**9.11.1** The HRBP is the liaison point between the business and HR. The HRBP role is a strategic one and they will be able to help senior managers make decisions on the range of staffing issues that might be raised as part of the organisational

change process. It is therefore important that managers and HRBPs begin working together before decisions that might affect employees are considered.

**9.11.2** The HRBP will be responsible for:

- working with managers, enabling them to identify the appropriate change processes that match the circumstances and helping develop the business case for change, providing data on establishment, and redundancy costs etc.
- ensuring that workforce plans and timelines for the review are in place to cover the period of the change.
- bringing an awareness of 'best practice' from other parts of the organisation to enable managers to take a consistent and fair approach to change.
- bringing in other experts to assist with the change processes e.g. Employee Relations, Learning and Development, Payroll.

**10.4 Employees in scope of the change process**

**10.4.1** Employees have an important role to play, to make sure they have the information necessary to make informed choices and to promote the positive impact of change. They can do this by:

- making themselves aware of and taking ownership of options open to them
- engaging actively in the change processes, including selection for roles redeployment. This may involve completing forms, participating in assessments, meetings and responding to consultation.
- making themselves aware of the options open to them and giving them careful consideration
- being open to re-training and developing into new roles where required.

**9.12 Trade Union (TU)**

**10.4.1** The TU's have an important role as follows:

- representing the unions' memberships through consultation with managers throughout the process of change.
- working constructively with managers to minimise the impact of change on employees.
- providing their members with representation in cases of complaint or grievance that might arise as a result of organisational change.

**For further information or advice on any aspect of this procedure, please contact your HR Business Partner or email [Hr.corporate@towerhamlets.gov.uk](mailto:Hr.corporate@towerhamlets.gov.uk)**

## Appendix 1

### Job Matching Appeals Procedure

1. Employee submits an appeal within 5 days of receiving the formal notification of the job matching proposals (after the indicative grades have been confirmed).
2. The DD/Service Manager will be responsible for organising the appeal meeting and sending invites to the parties involved. Where the post is a generic post, the employees will be invited to nominate a maximum of two staff to represent their case to the panel.
3. The appellants have the right to representation at the hearing and it is their responsibility to arrange this.
4. The panel will comprise of a Senior Management Representative supported by a HR BP, neither will have been involved in the review.
5. The management representative must produce a pack of information for the panel including the current and proposed JDs, the job matching proforma, the appellants grounds of appeal and a written response to the grounds of appeal. The pack should be available at least 3 days in advance of the hearing.

#### 6. Order of the Hearing

- 6.1 The employees will present their case first (maximum of 30 minutes) to set out why they feel they should have been matched to the new job.
- 6.2 The panel and management representatives can ask questions
- 6.3 The management representative then presents their case (maximum of 30 minutes) and again take questions from the employee(s), their representatives and the panel.
- 6.4 The panel will ask each party to make their final submissions (5 minutes max each) and ask the parties to withdraw
- 6.5 If a decision cannot be made on the day, the panel should agree to provide the response in writing within 2 days.
- 6.6 There is no further right of appeal.