

## Senior Management Review

### 1 Process

- 1.1 If Members agree to the recommendations a detailed proposal will be formulated. If accepted this will enable a formal period of consultation to commence.

### 2 Purpose of Collective Consultation

- 2.1 Informing and consulting with the workforce is essential for the success of any organisation. The aim is to allow employees to influence the employer's decision
- 2.2 Consultation is not simply the act of passing information on or presenting employees with decisions that have already been agreed. It is a process by which management and trade unions or ( employee representatives) are able to discuss and examine issues of mutual concern, with the outcome resulting in employees having had the opportunity to influence the decision making process by considering and feeding back on the organisations proposal. The business reason for not accepting a proposal needs to be compelling and able to demonstrate all suggestions have been taken into account during the consultation period.
- 2.3 In order to ensure the consultation process is meaningful the organisation should be clear on;
- The business rationale behind the proposed dismissals
  - That while the organisation will make the final decision, representatives will have a full opportunity to comment on the proposal.
  - Management will listen, engage and consider views of employees when making decisions, demonstrating genuine opportunity to influence the outcome.

### 3 Statutory Consultation

- 3.1 Collective consultation must take place in good time. The statutory timetable for consultation should be regarded as a minimum and is as follows:

<b>Number of employees it is proposed to be dismissed at establishment over 90 day period.</b>	<b>Minimum consultation period before first dismissal takes effect.</b>
20 - 99	30 days
100 or more	45 days

The employer should not issue notices of termination until the consultation process has been completed.

3.2 For the purposes of consultation, the employer must provide the appropriate representatives with certain information in writing. This includes:

- The reasons for the proposed redundancies
- Numbers and description of posts affected
- Proposed method of selecting the employees who may be dismissed.
- Proposed method of carrying out the dismissals, taking account of any agreed procedure including the period of time which the dismissals are to take effect.

The consultation should include exploring ways of avoiding potential dismissals, reducing the number of employees to be dismissed and mitigating the consequences of the dismissals.

3.3 The Employment Appeals Tribunal (EAT) has set out principles for ensuring fairness of redundancy dismissals. Whilst the principles were formulated in relation to consultation where the employees are represented by a trade union, employers should also apply them when consulting individually, whether or not a union is involved. The principles include:

- The employer will seek to give as much warning as possible of impending redundancies so as to enable the union and employees who may be affected to take early steps to inform themselves of the relevant facts, consider possible alternative solutions and, if necessary, find alternative employment in the organisation or elsewhere.
- The employer should begin consultation when proposals are at a sufficiently formative stage to enable the consultation to be meaningful. This should be at an early enough stage so that all options can be explored with employees including whether or not the need for redundancies can be avoided.

## **4 Information and Consultation Methods**

4.1 Whilst the Employment Committee is concerned with the recruitment and dismissal of officers at Head of Service level and above, the proposal for the senior management structure is of a wider interest to the council's staff, unions and partnership organisations.

4.2 Employers can inform and consult using a variety of communication and information methods, depending in part on the size and structure of the organisation. Whatever method is used, Members should take into account the following factors:

- The information should be clear, easy to understand and concise. Presented objectively so that employees are encouraged to make proposals without being influenced by the employer's view.
- Relevant and open to consultation.
- Should aim to provide regular and systematic updates to ensure employees know when to expect them.
- Approach should be consistent when providing information. Particular care should be taken when different sources cascade the information

- Employers should be transparent when giving information
- 4.3 Should Members be minded to approve the recommendation to the wider consultation arrangements they may wish to give due consideration to previous methods of internal communications successfully utilised to ensure meaningful consultation with the council staff and unions. These included:
- Providing an outline of proposals and link to the full report published on PCC Intranet site
  - Creation of a Marketplace thread to prompt questions and discussions.
  - Proposal information included in Team Brief ( monthly update sent to all managers for discussion at team meetings).
- 4.4 In addition, the Chief Executive personally briefed the Corporate Management Board and the Third Tier Managers on the proposed changes, highlighting where they could make representations.  
An email address was created to receive any representations on the proposal and Directors and Heads of Service also collated representations they received.

## **5 Determination of a redundancy Selection pool**

- 5.1 Where it has been established circumstances are likely to result in a job loss or job losses and there are consequent redundancies, management will normally create a 'pool' of employees from which the selection is to be made.
- 5.2 Redundancy is potentially a fair reason for dismissal under section 98 of the Employment Rights Act 1996. An employer must show that it has acted reasonably and adopted a fair procedure, this requires consideration of the appropriate pool of employees from which the selection for redundancy is made. An organisation is afforded a degree of flexibility when defining the redundancy pool. However, to ensure the fairness of any dismissals the employer must demonstrate that it took a reasonable approach.
- 5.3 Should Members be minded to approve the recommendation to change the senior management structure they will need to ensure the selection criteria applied to the pool of staff at risk of redundancy is objective and applied in a fair and consistent way.

### **Considerations**

- What is the purpose of the post selected, how many other posts also fit this purpose.
- When recruiting is the same criteria applied in the selection process.
- Could a post holder act as a substitute for another post holder
- If one post is not considered part of the pool what excludes it.  
[Employment Tribunals tend to look at title, salary, level of responsibility and require a substantial difference for exclusion purposes]

- 5.4 The organisation should look at the day to day activities of the post holders and the terms of their employment. Focus should be on the reality of the work they actually undertake rather than what their contract says in theory is required to be undertake. Consideration also needs to be applied as to whether an individual's skills are interchangeable with other employees, so a wider selection pool may be required. It is not necessary to determine a redundancy selection pool where only one job role is redundant, and there is only one employee carrying out that role. However this will only apply where the role is unique within the business. If there are other roles that are similar across the organisation or that require similar skills and qualifications ie leadership and management, consideration will need to be undertaken to decide whether it is appropriate to include the employees in those roles into a pool for selection.

## **6 Next steps**

- 6.1 Dependent upon Members decision, having fully considered the responses to consultation [ regarding the detailed proposal yet to be formulated in relation to senior management posts]. One or more heads of service posts may be redundant and the post holders at risk of redundancy. Members will need to consider whether to:

- 'Slot - in' where heads of service are substantially performing the role proposed in the structure
- Ring fence recruitment to those post holders at that level who are at risk or performing a part of the role.

- 6.2 There is a proper process to go through to guide members' decision in relation to making appointments to new staffing structures and this supports the Councils redeployment policy and existing practice.

### Principles

The process of movement of employees from existing to new structures should be achieved as effectively as possible through a fair procedure which includes:

- Identification of Job Matching
- Ring fencing of recruitment

### Job Matching

Broad criteria should focus on purpose of the role taking into account skills, experience, knowledge and level of responsibility

### Ring Fencing

If through a reduction of the number of posts in the new structure there are more people than posts, appointment should be considered through the ring fence selection process.

- 6.3 The Employment Committee is perfectly entitled to elect to ring fence the recruitment process, inviting only staff identified as being at risk to apply. In addition this will ensure compliance with existing redeployment policy and practice utilised across the Council.

- 6.4 Where any post profile is significantly revised as part of the restructure, this should be evaluated under the Council's Job Evaluation process.

## 7 Timeline

- 7.1 Assuming that appointments to any new posts are sought through an internal ring fence process (in line with existing redeployment policy). The timescale set out below is a guide to the potential timelines.

<b>Senior Management Consultation</b>	<b>Days</b>
Consultation	45/30 days
Collate response and prepare report	14 days
Report to committee	1 day
Special Employment Committee (if appropriate)	1 day
Communication and job matching	7 days
Selection and redundancy communication	14 days
Notice periods	84 days
<b>Total</b>	<b>166/151 days</b>