

Subject:	Redeployment & Pay Protection Policies		
Date of Meeting:	9 June 2016		
Report of:	Executive Director for Finance & Resources		
Contact Officer:	Name:	Katie Ogden	Tel: 01273 291299
	Email:	Katie.ogden@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that negotiations were ongoing and have only just successfully concluded with the recognised trade unions.

1. PURPOSE OF REPORT & POLICY CONTEXT:

- 1.1 Last year the Executive Leadership Team considered a report looking at all aspects of the council's employment costs in the context of the council's four year financial plan. ELT concluded that the council needs to develop a strategy to transform its current pay and benefits package. The pay and grading structure should be better aligned to our organisation structure, able to address the challenges of the living wage and consequent loss of our lowest grades over the next four years, along with limited pay increases. At the same time the council must ensure that its pay and benefits offer is sufficiently attractive so as to secure and retain individuals with the skills required for the future.
- 1.2 The pay modernisation project implemented in 2013, which looked only at allowances, was in reality an exercise of necessity to significantly reduce the council's equal pay liabilities. An ambitious approach will require detailed research and planning as well as negotiation and consultation with the trade unions. It is anticipated that this will take until 2018-19 to implement.
- 1.3 However there is an area that is recommended for earlier implementation in order to assist the organisation reduce expenditure in the first year of the four year financial plan. Individuals will be placed at risk of redundancy and every effort will be made to redeploy individuals but the costs for protection payments rest with the original budget holder and thus impact on forecast savings. It was therefore timely to review our redeployment and protection policies.

2. RECOMMENDATIONS:

Policy and Resources Committee

- 2.1 note the work being commissioned to develop a pay and reward strategy.
- 2.2 agree the attached redeployment policy
- 2.3 agree the attached protection policy

Redeployment: Proposed changes – Policy at Appendix 1

- 2.4 The scope of the redeployment policy is widened to formally set out our legal obligations regarding employees at risk of redundancy who are on maternity, paternity or adoption leave.
- 2.5 The scope of the redeployment policy is changed to make explicit that employees at risk of dismissal from their current employments due to ill-health and lack of capability were covered by the redeployment policy.
- 2.6 The responsibility of the employee to look for suitable alternative roles, as well as HR, has been emphasised.

Pay Protection: Proposed Changes – Policy at Appendix 2

- 2.7 Pay protection is reduced from three years to two years where the first year's protection is 100% of the previous salary and the second year's protection is 75% of the previous salary.
- 2.8 The policy states that 'normal' contractual pay is used to calculate the salary protection payment.

3. CONTEXT/BACKGROUND INFORMATION:

Background

- 3.1 The redeployment and pay protection policies were identified for review as part of the People Plan, to help ensure that HR can support the organisation in the current financial climate.
- 3.2 The review of the redeployment policy is to ensure there is clarity regarding the scope of the policy and that it reflects our legal responsibilities to employees at risk of loss of employment. The intention of the review of the policy on protection is to reduce the costs of redeployment by a reduction in our protection policy and to bring our policy in line with that of other organisations.

Redeployment: Background

- 3.3 In practice, and in accordance with employment legislation, the council seeks to identify alternative employment for employees at risk of dismissal from their current employment due to ill-health and lack of capability however this is not formally covered in the scope of the current policy.

Members hearing an appeal against dismissal identified this omission and asked for it to be rectified.

- 3.4 Following another recent appeal hearing, Members recommended that the role of the employee to look for suitable alternative jobs should be clearly stated in the policy, and the wording has been amended to reflect this.
- 3.5 A further amendment is to make explicit the rights of employees on maternity, adoption or shared parental leave, i.e. that if a vacancy that is suitable for the employee(s) exists, they must be offered it even if this means that they are treated more favourably than another employee who is also 'at risk'. This is the case even if the other employee is better qualified than they are.
- 3.6 The review of the policy also identified opportunities to improve the process and data collection. This is currently being addressed and will involve key stakeholders.

Pay Protection: Background

- 3.7 The council's pay protection policy applies to NJC and JNC staff. Protection is offered to provide some transitional support to individuals redeployed as a result of redundancy to a lower graded role. The benefit to the organisation is that offers of redeployment are more likely to be deemed 'reasonable' and avoid the need for a redundancy payment.
- 3.8 The council's current policy provides for three years protection and whilst this was once the norm in local government this is no longer the case: equal pay legislation and costs have resulted in councils limiting protection arrangements, usually to one year.
- 3.9 Protection pay is funded by the original department. Thus where posts are deleted to create savings it is often the case that the department is funding protection payments for up to three years and not achieving the anticipated savings.
- 3.10 The policy has also clarified, in response to a collective dispute outcome from Members, that it is the individual's normal contractual pay that is used in the calculation of the salary protection payment.
- 3.11 As of March 2016 there were 59 non-schools employees in receipt of pay protection. They will not be affected by the proposed changes which will only apply to individuals who accept an offer of redeployment after 1 July 2016.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

Redeployment:

- 4.1 Organisations have a legal duty to consider redeployment for individuals at risk of dismissal. The revised policy sets out the main groups for whom the council would automatically seek redeployment opportunities as an

alternative to dismissal but recognises that there may be other individual cases where HR would advise that alternative employment is sought when considering dismissal of an individual.

Pay Protection:

- 4.2 Other options were considered, including reduction to one year, eighteen months, as well as reducing the level from 100% during the period of protection.
- 4.3 Research shows that many local authorities have already reduced or are considering reducing their protection arrangements. The proposed policy is clear, concise and consistent and in line with of other councils' policies on protection.

5. COMMUNITY ENGAGEMENT AND CONSULTATION

- 5.1 Trade Unions and the Workforce Equality Group have been informed of the proposed changes to the protection and redeployment policies. Formal consultation with the trade unions has taken place. The unions do not have any concern about the changes to the redeployment policy but did raise concerns about the management of the redeployment process. They cited concerns about vacant posts being deleted without consultation or communication, or vacant posts being held in services when they could be used for redeployment. It was explained that the council's new establishment process will support a more strategic approach to identification of vacant posts and thus redeployment opportunities for individuals at risk. More detailed workforce planning will also ensure early identification of staff groups at risk, assessment of their current skills and how these could be utilised or developed to secure employment in other roles the council needs to fill. They also felt that sometimes offers of voluntary severance are limited to the immediate staff group affected by proposals when they could be extended to a wider group of staff with similar skills.
- 5.2 Following initial discussions about the proposed revised policies a letter was sent to both GMB and Unison on 4 February commencing formal consultation and setting out the key proposed changes to the existing policies. The original proposal was to reduce protection from 3 years to 1 year, to provide protection only if an individual is redeployed within one grade and to protect the difference in grade only. The unions were strongly opposed to the original proposals. They believe a generous protection policy facilitates the avoidance of compulsory redundancies and reduces expenditure on voluntary severance. As a result of the consultation the proposals have been amended.

6. FINANCIAL & OTHER IMPLICATIONS:

- 6.1 Currently there are 59 staff on protected pay, at a cost of £0.177m per annum. If these individuals were used to forecast future savings then the proposed policy would save £0.221m over a three year period. However, future numbers of staff qualifying for protected payments are difficult to predict and so future savings levels would be uncertain at this time.

Finance Officer Consulted: Peter Francis

Date: 7 June 2016

- 6.2 The Council's employment contract with employees is clear that, unless expressly stated otherwise, policies shall not have contractual status. The Council should seek to carry out equality impact assessments on the proposed changes to the policies and consult fully on the proposed changes.

Lawyer Consulted: Elizabeth Culbert

Date: 18 May 2016

Equalities Implications:

- 6.3 A Statement of Evidence of Due Regard was completed for the redeployment policy. The review of the existing policy found that it was necessary to make a couple of changes to bring the written policy in line with our current practice. Where an individual's employment is at risk due to health reasons or a lack of capability they are now formally within scope of the policy. Historically, this information had been set out in the other relevant procedures, namely the Attendance Management and Capability Procedures respectively. The policy also now states that employees under notice of redundancy who are either pregnant or on maternity, adoption etc. leave should be afforded priority over other redeployees when being considered for suitable, alternative job opportunities.
- 6.4 The data captured for redeployment is under review to ensure that there is sufficient information to complete a full equality impact assessment.
- 6.5 Equality Impact Assessments are also carried out on any proposals that could impact on staffing structures to establish whether the proposals are likely to have an adverse impact on employees with protected characteristics and then managers should consider, whether by modifying the proposals, it is possible to mitigate or eliminate the adverse impact.
- 6.6 An analysis of those in receipt of protected payments in March 2016 shows that the majority were men and this being so then the shorter the period of protection the better able the council is to justify the protection as a proportionate means of achieving a legitimate aim when it comes to equal pay considerations.

Sustainability Implications:

- 6.7 There are no direct sustainability implications arising from this report.

Any other significant Implications:

- 6.8 There are no other significant implications arising from this report.

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1: Proposed Redeployment Policy
Appendix 2: Proposed Pay Protection Policy

Background Documents:

None.