



## **Derbyshire Constabulary**

### **Office of the Police and Crime Commissioner**

### **Reorganisation, Redundancy and Redeployment Policy**

#### **POLICY REFERENCE 05/001**

**This policy is suitable for Public Disclosure**

**Owner of Doc:** Head of Department, Human Resources.

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## 1. Policy Identification Page

<b>Policy title:</b>	Reorganisation, Redundancy and Redeployment Policy
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<b>Impacts on other policies / guidance / documents (<i>list</i>):</b>			
Guidance on Reorganisation, Redundancy and Redeployment			

<b>Security Classification:</b> NOT PROTECTIVELY MARKED
<b>Disclosable under FOI Act:</b> YES
<b>Policy to be published on Intranet:</b> YES
<b>Policy to be published on Force Website:</b> YES
<b>Policy disclosable to public via FOI request:</b> YES

## **2. Legislative Compliance**

This document has been drafted to comply with the principles of the Human Rights Act. Proportionality has been identified as the key to Human Rights compliance, this means striking a fair balance between the rights of the individual and those of the rest of the community. There must be a reasonable relationship between the aim to be achieved and the means used.

Equality and Diversity issues have also been considered to ensure compliance with the Equality Act 2010 and meet our legal obligation in relation to the equality duty. In addition, Data Protection, Freedom of Information and Health and Safety Issues have been considered. Adherence to this policy or procedure will therefore ensure compliance with all relevant legislation and internal policies.

## **3. Introduction**

This policy applies to all Police Staff who are employed under Police Support Staff Council (PSC) Conditions of Service. It does not apply to Police Officers. The term "police staff" refers both to staff who work under the direction and control of the Chief Constable and those who work directly for the Police and Crime Commissioner.

The policy will not apply to police staff: -

- Who move between jobs voluntarily as a result of a job application when a post is advertised or on voluntary secondment for developmental purposes.
- Where a contract of employment terminates for other reasons such as discipline, capability or medical grounds, for which relevant procedures apply.

The policy should be followed where the reorganisation will lead to or potentially lead to a redundancy situation. Where the reorganisation is not expected to lead to a redundancy situation, the policy and supporting guidance may be used as best practice.

Subject to any legal or contractual obligations, the provisions within this policy are at the discretion of the organisation. The organisation will comply with all relevant legislation and consultation will take place on any changes as part of maintaining a positive employee relations climate. In this respect, the policy will be amended from time to time to reflect legislation and / or best practice.

## **4. Policy Statement**

It is recognised that to modernise, maintain and continuously improve service delivery, organisational change and re-structuring is inevitable and such change will impact on staffing requirements. There will be a joint commitment with UNISON jointly commit to maximising the security of employment of its staff by avoiding redundancies wherever possible.

The management of any restructuring process will be undertaken fairly and effectively, providing a redeployment process and managing redundancy processes by ensuring that: -

- Staff affected are treated fairly, sensitively and consistently;
- There is full and open communication throughout the period of reorganisation;
- There is regular consultation with staff and UNISON;
- The process is carried out objectively to meet business and operational needs;
- Measures are taken to avoid, mitigate or reduce the adverse effects of change.

## 5. Procedures

### Staff Serving a Probationary Period

If restructuring/redundancy takes place and their post is at risk they will be treated the same as other staff provided that they are otherwise eligible and their performance, attendance and conduct are all satisfactory. The probationary period will continue in their new post.

### Legal Basis

- Employment Rights Act 1996
- Local Government (Early termination of Employment Discretionary Compensation (England and Wales) Regs 2000
- Redundancy payments (Continuity of Employment in local Government etc. (Modification) order 1999
- Trade Union and Labour relations (Consolidation) Act 192 as amended by Trade Union Reform and Employment Rights Act 1993
- The Disability Discrimination Act 1995 (as amended)
- The Sex Discrimination Act 1976 (as amended)
- The Race Relations Act 1976 (as amended)
- The Employment Equality (Religion or belief) Regulations 2003
- The Fixed term Employees (Less favourable Treatment) Regulations 2002
- The Part-time Workers (less favourable Treatment) Regulations 2000
- Collective Redundancies and Transfer of Undertakings (Protection of Employment) Amendment Regulations 1999
- Employment Equality (Age) Regulations 2006
- Income Tax ( Earnings and Pensions ) Act 2003
- Equality Act 2010

Line Managers must consider opportunities for natural wastage and flexible working as part of the restructuring process, for example any requests for reduction in hours etc. Any requests for flexible working must be in line with the Request for Flexible Working Policy and meet operational requirements. It is also important to ensure no detrimental treatment takes place on the grounds of gender, race, trade union membership or activity, age religion or sexuality. Staff with disabilities must be treated in accordance with the Equality Act 2010 which places a duty upon employers to make reasonable adjustments and all necessary consultation and consideration of adjustments must take place.

### **Fixed Term Employees**

In broad terms, fixed term workers may not be treated less favourably than permanent workers. However, specific circumstances may arise where there is an objective justification for treating fixed-term workers differently in organisational change. Each circumstance should be considered on a case by case basis and advice obtained from the relevant HR Manager.

Where a fixed term worker had a reasonable expectation that their work would come to an end at a certain date, e.g. on completion of a project, funding, maternity leave or the return of the substantive post holder, there may not be a need to include them in organisational change as long as this remains the case.

However, where a fixed term assignment is cut short due to organisational changes, or the fixed term worker had a reasonable expectation that their work was continuing or would be extended, they will normally need to be included in any job matching and selection pools, provided they were recruited to the fixed term worker role through fair and open competition.

### **Sharing Information with UNISON**

The organisation is committed (subject to data protection etc. requirements) to the disclosure and sharing of information with UNISON so they may effectively represent their members. Information provided will include numbers of staff on the redeployment register, numbers of vacancies, numbers of redeployments achieved, numbers of appeals and number of staff without posts. Personal information specific to individuals will not be disclosed.

UNISON will be consulted on ways of avoiding redundancy dismissals, reducing the numbers of employees who need to be dismissed and mitigating the consequences of the dismissals. It is not necessary to consult on the economic decisions that have led to any redundancy situations arising in the first place.

### **Changes across Organisational Boundaries**

Where organisational changes require staff to be transferred from one employer to another, the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) will apply. Under these arrangements, the employee's continuity of employment will be preserved along with contractual terms and conditions of employment and any collective agreements that apply.

Where staff are transferred to new posts under TUPE, they are not regarded as having been made redundant.

### **Restructuring**

UNISON must be consulted with in the early stages of developing proposals (on a confidential basis) in order to assist them in understanding and advising their members subsequently. Working as partners, both sides will aim to agree the process and the way posts are to be filled.

The Line Manager and HR representative will provide support and advice throughout the process. This will include including holding one-to-one sessions with members of staff as appropriate.

In most cases, it is envisaged that the consultation process will have a minimum of three key stages: -

### **Stage 1 - Initial Consultation**

The first step will be to decide whether any changes in structure are necessary. This may arise because of changes identified in the business planning process, a review of process and operational requirements, reductions in budgets or where the need is identified for better ways of working. Where any changes propose a reduction in existing staffing levels, any implementation plan should consider achieving the reductions through natural wastage. Any vacancies arising during this period should be considered as holding as vacant or filling on a short time temporary contract so as to minimise the risk of redundancy for existing staff.

An HR Manager will be allocated and involved in the process from the outset. The reasons for the change should be explained to all staff affected together with UNISON at the earliest opportunity by the line manager and HR representative. This consultation will provide an over view of the proposed changes.

The following information must be presented:-

- Business reasons for the proposed changes. This should also provide full justification for any reduction in staffing numbers.
- An outline/ proposed structure chart based on business and operational needs.
- Proposed time scales for change.
- Support arrangements e.g. Employee Assistance Provider, Occupational health etc. for staff affected.

Following this initial consultation time must be allowed for staff representatives to consult their members. It is vital to ensure that non-UNISON members are consulted and managers must meet formally with such staff in order to present proposals. Staff must be given reasonable opportunity to feedback and comment on the proposals.

### **Stage 2 Feedback and review**

This stage should incorporate, as a result of feedback from staff and UNISON any updates and changes to the proposals, where appropriate. This stage may involve several consultative meetings and one to ones as necessary, including updates by the manager on progress with the review.

Consultation must take place between managers, HR and UNISON on a proposed implementation plan.

At this stage managers should identify: -

- Proposed outline revisions to jobs.
- Identification of any new roles and / or jobs which may be displaced.
- Identification of roles which remain unchanged.

Documentation must be prepared for any revised roles including role profiles and job overviews. Roles should be graded in accordance with the agreed job evaluation scheme. Copies of the job overview documents and role profile for

relevant posts in the new structure must be made available to those staff affected by the restructuring exercise.

### **Stage 3 Final Consultation and Approval**

Those leading the change programme on behalf of the organisation will require formal approval for the final proposals as follows:-

- Large scale organisational changes / restructuring (Force-wide, Divisional or Departmental) – Project Board.
- Minor restructuring e.g. Sectional, Sub-sectional or Small teams / Groups of Staff – appropriate Executive Officer.

### **Posts in the New Structure**

#### **Approach for posts which are unchanged or substantially the same**

The posts within the affected formation will be “ring fenced” initially within that formation to facilitate selection of staff affected by the restructuring.

The line manager will identify which of the posts are the same, or substantially the same as existing posts by reference to the grade, purpose, activities, location, behaviours and essential and desirable criteria contained in the job overview document. Where the essential requirements can be met through a short-term (normally no longer than 3 months) training and development plan, every effort will be made to provide this support.

“Slotting in” is defined where the duties and responsibilities of the role remain the same or are defined as 80% or over as the same. Where there is a match and the member of staff is discharging these responsibilities in a substantive capacity and not on a temporary basis, and **where there is only one individual carrying out these duties**, the member of staff can be confirmed in post without the need for competition.

Where the line manager has demonstrated an objective and justifiable business need for professional qualifications and such qualifications are not held by members of staff, they will not be suitable for slotting in. This need will be reflected in the job overview and role profile for the post.

The ring fencing proposals will be agreed through a panel comprising of the HR representative, Head of Department/Divisional Commander and senior HR Manager and a report prepared outlining these.

Where there are more individuals carrying out these duties than there are posts within the new structure an objective selection exercise will take place to decide who will fill the new post(s). “Ring fencing” of those staff who meet the essential criteria in the job overview will be undertaken and a selection exercise will be undertaken, on which UNISON will be consulted. Selection will normally be carried out sequentially on a top down basis, based on the grade of the post.

Staff who have been seconded or acting up into a role for less than 2 years will not be “slotted in” to this role in the event of redesignation/redeployment of roles but will be considered against their substantive role.



### **Approach for Posts which have changed substantially/new posts**

If the proposed restructure creates new or significantly different posts within the affected Section(s) / Departments, these may be “ring fenced” and/or advertised initially within that formation to facilitate selection of staff affected by the restructuring.

Once the above “ring fencing” is completed, posts will be advertised to staff on the redeployment register.

Where no one on the redeployment register is suitable, the post will be advertised internally within the department (where appropriate) and then internally within the organisation, with the aim of creating some movement and potential vacancies. However, where the vacancy is so specialist or technical that internal advertising will not attract suitable candidates the post will be advertised externally.

### **Redeployment Procedure**

Refer to supporting Guidance (Section 1) and Redeployment Procedure for detailed information.

The organisation will seek to find the selected employees alternative employment within the organisation and consult with them about this. If there is a relevant vacancy the employee should be offered the post ahead of any external candidates. Consideration will also be given to;

- vacancies, even if in less senior positions
- difference in roles
- difference in remuneration
- qualifications of the employee
- Voluntary Redundancy options

Where staff are unsuccessful in obtaining a post through the restructuring arrangements or have been selected for redundancy, they will be formally placed on the Redeployment Register normally for a period of 3 months and managed in accordance with the Redeployment Procedure.

In the event that an individual does not apply for posts or has not accepted suitable alternative employment without good reason, they will be informed that the organisation reserves its right to withhold redundancy benefits.

### **Trial Periods**

Refer to supporting Guidance (Section 2) for detailed information.

Employees who, under this Policy, are offered alternative employment have a statutory right to a four-week trial period in the new position to assess whether or not the new role is acceptable to both employee and employer. This trial will begin at the end of the employee’s employment under the previous contract and ends after 4 calendar weeks. It can be extended by an agreement in writing

between the employer and employee for the purposes of re-training. Such an extension will be considered if requested by either employer or employee and would normally be for a maximum period of three months.

If the employee works beyond the end of the four-week period or the jointly agreed extended period any redundancy entitlement will be lost because the employee will be deemed to have accepted the new employment.

Should the organisation wish to end the new contract within the four weeks for a reason connected with the employee's performance in the new post, the employee will preserve the right to a redundancy payment under the old contract. The employee will be redundant from the date of termination of the original contract.

### **Redundancy**

Refer to supporting Guidance (Section 3, 4 and 5) for detailed information and the definition of redundancy.

Compulsory Redundancy will be considered as a last resort.

The organisation reserves the right to implement a VR scheme taking into consideration in light of the prevailing budgetary situation and the operational impact of the organisational changes.

The organisation reserves the right to consider enhancements to voluntary schemes as appropriate.

Any voluntary redundancy scheme for staff under the direction and control of the Chief Constable will be subject to the approval of the Director of Finance and Business Services/Treasurer for OPCC staff. Any voluntary scheme under the direction and control of the PCC will be subject to the approval of the Chief Executive in consultation with the PCC.

The PCC and the Chief Constable, in respect of staff under their direction and control, may, on occasion, amend, enhance or withdraw the Scheme after consultation with UNISON.

### Payments

- (a) To qualify for a redundancy payment, employees must have been continuously employed for at least two years with the Police Authority/local policing body or by an organisation covered by the Local Government (Modification) Orders.

There is no entitlement to pay redundancy if, prior to leaving, an employee receives an offer of employment with another Police Authority/local policing body or by an organisation covered by the Local Government (Modification) Orders which commences within four weeks of the last day of employment.

The calculation for statutory redundancy pay is based on: -

- How long the person has been continuously employed.
- Their age.

- The weekly pay, up to a certain limit (current statutory limit £380) however it has been agreed this will be actual salary.

The weeks and service will be calculated as follows:

- 0.5 weeks pay for each full year of service age under 22
- 1 week's pay for each full year of service age 22 to 41
- 1.5 week's pay for each full year of service age 41 and over.

The maximum payment is 30 weeks pay and the amount will depend on age and the periods of continuous service.

Service is counted back from the date of termination and only complete years count.

A week's pay for this purpose would include all regular allowances, e.g. shift and weekend working but not overtime payments.

An example would be:-

A person age 56 with 37 years service.

15 years service at 1.5 x weekly salary = 22.5 weeks to pay at plain salary, (age 41 to 56) plus 5 years service at age 22-41 (1 weeks pay for each years service) = 5 weeks at plain weekly salary, total 27.5 x weekly salary to pay.

A person age 31 with 13 years service.

9 years service at 1 x weekly salary, plus 4 years at 0.5 x weekly salary, a total of 11 x weekly salary.

### Pension Benefits

Employees who are aged 55 and are made redundant, being a member of the Local Government Pension Scheme with at least two years' pensionable service will be eligible for the immediate payment of benefits in accordance with the Pension Scheme.

There is no provision in any Voluntary or the Compulsory Redundancy Scheme for pension augmentation (added years) or extra monetary value to be applied

The PCC has the discretion to grant augmented pension to the maximum of 4 years or extra amounts of pension to a monetary value of £5,000.

Employees cannot retire before the age of 60 without Employers consent for early retirement, each application will be considered on an individual basis.

### **Consultation for redundancy**

Refer to supporting Guidance for detailed information.

The organisation will apply the legislative requirements in respect of consultation.

Once the proposals to dismiss for reasons of redundancy are established the following will apply;

### **Individual redundancy**

Employees will be given notice of possible redundancies before the selection criteria are applied. This will mean that they are told that their jobs are 'at risk' of redundancy and they will be notified of the selection criteria.

There will be objective selection criteria agreed. The Force/OPCC will select employees for redundancy fairly on the basis of the criteria.

The employee can appeal in respect of the selection.

### **Fewer than 20 redundancies**

Where fewer than 20 employees are being made redundant, there are no formal statutory requirements, but the proportionate level of consultation will still be undertaken.

As much warning as possible will be given of impending redundancies so that UNISON and the affected employees may inform themselves of the facts, consider possible alternatives to redundancies or seek alternative employment.

### **20 or more but fewer than 100 redundancies**

Where there is a proposal to dismiss between 20 and 99 employees in a 90 day period, consultation with their representatives must begin at least 30 days before the first dismissal is due to take effect.

### **100 or more redundancies**

Where there is a proposal to dismiss 100 or more employees in any one 90 day period, consultation with their representatives must begin at least 90 days before the first dismissal is due to take effect.

These time periods are a minimum: it is required that consultation should start in good time and in any event by the beginning of the stipulated period.

However, once consultation has commenced, the legislation does not prevent the Authority from issuing notices of dismissal, or even effecting actual dismissals, before the end of the 90 or 30 day period of consultation. The consultation provisions define when the period of consultation begins. They do not mean that consultations should necessarily last for the whole of the 90 or 30 day period, if, for instance, agreement can be reached at an earlier date.

The Secretary of State will be notified on DTI (BIS) Form HR1, so that government departments and agencies and the Jobcentre Plus Rapid Response Service can be alerted and prepared to take any appropriate measures to assist or retrain the employees in question.

The notification to the Secretary of State will be made before any of the relevant employees are given notice of dismissal (in addition to being 30 or 90 days before the first of the dismissals is due actually to take effect).

### **Selection for redundancy**

The organisation will seek to retain the most suitably skilled and adaptable employees, who have demonstrated their ability to meet both the present and future needs of the organisation.

Employees dismissed by reason of redundancy have rights to;

1. Proper consultation prior to any dismissal
2. Fair selection for redundancy
3. Redundancy payment

The selection for redeployment and redundancy will be based on an objective selection process and the criteria for the role together with attendance, disciplinary and performance records. UNISON will be consulted upon the selection criteria. The staff involved will be advised of the selection criteria, its application and the right of appeal. On request, an employee will be entitled to receive full information on how the redundancy criteria have been applied to them.

The use of "Bumping" may be considered when considering potential alternative employment.

### **Formal notice of redundancy**

Refer to supporting Guidance (Section 6) for detailed information.

The line manager and HR Manager will hold one to one meetings with staff deemed at risk of redundancy to ensure full consultation has taken place and staff are formally placed on the Redeployment Register for a period of three months.

Staff will be formally declared redundant if they have not been successful in securing a post through the redeployment procedure. Staff will receive formal notification from the HR Manager that they are at risk of redundancy.

Where either a voluntary or compulsory redundancy is to take place, an employee will be given formal notice of redundancy. The length of notice will be the greater of;

- a) one week of notice for each year of service up to a maximum of 12 weeks or
- b) the length of notice stated in the contract of employment

A written statement must be provided giving the reason for dismissal.

A meeting must take place with the member of staff, line manager and HR Manager to discuss the dismissal. The member of staff is entitled to UNISON representation or a workplace colleague. Only after the meeting has taken place will the member of staff receive notice of redundancy and entitlement to redundancy benefits (if appropriate).

### **Changes in redundancy date**

Once the organisation has given formal notice of redundancy to an employee, the employee may ask for their redundancy date to be brought forward. Where this occurs, the employee will still be entitled to a redundancy payment, recalculated from the agreed new date. An employee who resigns prior to the formal notice is not entitled to a redundancy payment.

### **Protection of Salary**

The primary aim is to achieve redeployment that reflects employee's current remuneration package. In cases where this is not possible time limited salary protection will apply. Any protection of pay and conditions of service afforded under this Policy apply only to the post taken under the Redeployment Procedure (including as an alternative to redundancy). In the event that the member of staff subsequently leaves or moves voluntarily to an alternative position within the organisation, the protection arrangements shall cease.

This policy provides for two years salary protection from the date the new contract commences. This will be a sliding scale of 100% of current salary in Year One and 50% protection of current salary in Year Two. Staff will continue to receive pay awards during this period but will not continue to receive increments. At the end of this period they will be paid either on their existing salary, if the grades overlap, or at the top of the new salary scale.

It is accepted that in certain circumstances staff may wish to be considered for redeployment to a role at a salary significantly below their current grade. In such cases protection arrangements will only apply where;

- a) the new grade is up to two grades below the old grade. If the grade is more than two grades the protection arrangements will not apply and staff will move to the maximum of the new grade. For example, a member of staff on Scale J takes a post at Scale H, they receive two years sliding scale protection for the difference between Scale J and the top of Scale H. They then revert to the top of Scale H at the end of the two year period.
- b) Staff who take a role at a significantly lower grade will be afforded two grade protection upwards. For example a member of staff on Scale J takes a role at Scale E. They will be protected for two years sliding scale for the difference between and Scale G (two grades above Scale E). They then revert to the top of Scale E at the end of this period.

Staff will be placed on the Redeployment Register at Category Three at their previous grade for two years.

The protection arrangements do not cover allowances for standby, weekend, shift working etc. from the previous role.

Discretion will be retained to cease the protection arrangements in cases where individuals unreasonably refuse to apply or be considered for a post commensurate with their skills, knowledge and abilities and their previous substantive grade.

Should legislation or case law identify that the protection arrangements are in conflict with the provisions of equal pay, the provision of protected pay will be reviewed.

### **Relocation**

Refer to supporting Guidance (Section 7) for detailed information.

### **Renewal of Contract and Re-engagement**

Refer to supporting Guidance (Section 8) for detailed information.

Where an employee is offered their old job back or offered another job and they restart employment within four weeks of the previous one ending, they are considered not to have been dismissed and are not entitled to a redundancy payment.

### **The Right to Take Time Off to Seek Work**

Refer to supporting Guidance (Section 9) for detailed information.

### **Staff on Career Breaks**

Refer to supporting Guidance (Section 10) for detailed information.

### **Maternity Leave/Paternity Leave/Adoption Leave**

Refer to supporting Guidance (Section 11) for detailed information.

### **Record Keeping**

Refer to supporting Guidance (Section 12) for detailed information.

## **6. Monitoring and Review**

The redeployment register will be monitored on a weekly basis to identify vacancies offered to staff and those staff who have gained alternative employment.

Regular reviews of staff on the redeployment register will take place on a monthly basis.

Checkpoint meetings will be undertaken as required where reorganisation is taking place. The number of appeals and results of such appeals will be maintained.

## **7. Appeals Process**

Refer to supporting Guidance (Section 13) for detailed information.

Where an individual has reasonable belief that the selection criteria/redundancy has been unfairly applied they will have the right of appeal.