

ALTERNATIVE EMPLOYMENT PROCEDURE

The following procedure will be followed by the Council's Chief Officers when a report is being drafted which indicates that a reduction in numbers of those employed is a natural consequence. Throughout the process there will be ongoing consultation with the Trade Unions.

In implementing this procedure, Chief Officers will ensure that our approach promotes and protects equality of opportunity in service delivery, at all times, in line with corporate policies and training.

Following the introduction of the Fixed Term Regulations in October 2002, the full Alternative Employment procedures must be applied to all those whose fixed term employment endures beyond four years. Sections 5 & 6 of these procedures should be applied to all those whose employment contracts with Eastbourne Borough Council endure beyond 12 months. For other groups of temporary worker, Managers must publicise to them under Section 6 of this document any available vacancies.

1. INITIAL CONSULTATION

1.1. When the continued employment of any of the Council's employees is seen as under threat, the relevant Director will discuss matters confidentially in the first instance with the Chief Executive and Head of Personnel.

1.2 They should then write to the appropriate Union Representatives, in confidence, detailing the possible implications. Such consultation must be initiated EITHER by the Director of the relevant department whose employees are affected OR, where several roles in different departments are involved, by the Head of Personnel, informing the appropriate Union Representatives of:

- the reasons for the proposals
- the numbers and descriptions of employees it is proposed to dismiss as redundant
- the total number of employees in any such description employed at the establishment in question
- the way in which employees will be selected for redundancy
- how the dismissals are to be carried out, including what action they propose to take in accordance with the Alternative Employment Procedure (including the period over which the dismissals are to take effect)
- the method of calculating the amount of redundancy payments (other than statutory redundancy pay) to be made to those who are dismissed.

1.3 The consultation must include consideration of any ways of avoiding the dismissals, reducing the number of employees to be dismissed, and mitigating the effects of dismissals. It must be undertaken with a view to reaching agreement with appropriate representatives on these issues. Notes of subsequent meetings with the Union Representatives must be kept and supplied to them.

1.4 Consultation with Union Representatives should be ongoing throughout the process.

2. CORPORATE ACTION

2.1 A post **must not** be filled with a candidate from either outside the

Department or the Council's service unless the Recruitment Review form has been duly released by the Director concerned.

2.2 The Council will suspend external recruitment to jobs of the same or similar character as those occupied by the employees affected. These are roles into which the displaced employees could be deployed and in which it would be reasonable to train and support them to perform

well within a reasonable period. The Council will be prepared to suspend recruitment to posts of the same or similar character to those of employees under threat of redundancy, unless an offer has already been made to a 'preferred candidate'.

2.3 Directors must consider those under threat of redundancy for any vacancy in their Department **prior** to its advertisement outside the Council. (See also Paragraph 6 below)

2.4 If a Director decides for any reason not to interview or appoint an employee under threat of redundancy to a vacant post, reasons should be provided to the Head of Personnel. They must be satisfied that the individual does not meet the person specification for the post and could not do so even with a reasonable period of training.

2.5 All the Council's Directors shall:-

- review overtime worked in any areas where a reduction might create an opportunity for redeployment;
- retain the displaced member of staff on a supernumerary basis (i.e. not in an established post) where a suitable vacancy is expected to arise within the next three months.

2.6 The Director(s) will take all practicable steps to source appropriate work for the employees concerned by ceasing, wherever possible, to use Consultants, Contractors and Agents engaged to do work of the same or similar character to that being undertaken by employees whose posts may become redundant.

2.7 At the same time the Director(s) shall also:-

- terminate the service of any employees who are over the age of 65, where this could aid redeployment;
- invite voluntary early retirement and/or voluntary redundancy

from those whose jobs are affected and, where feasible, from those in jobs into which the affected employees might reasonably be redeployed.

3. CONSULTING WITH THE INDIVIDUAL & BRIEFING CABINET

3.1 As early as is reasonable in the process, and notwithstanding any earlier consultation carried out by managers at a divisional or departmental level, the individual employee(s) must be informed of their position. Any discussions should be confirmed in writing and copied to the appropriate Trade Union representative. Counselling and support must be offered at this and later stages. Consideration must be given to any steps the Council can take:

- to prevent or alleviate hardship;

- to assist with training; and
- to assist in finding alternative work.

Any displaced employee can make application to their Manager to be allowed reasonable time off with pay to seek alternative work.

3.2 The relevant Director will ensure that copies of such employees' job descriptions and person specifications (as available) for the posts from which they are displaced are passed to corporate Personnel for circulation.

3.3 Each employee affected will receive a letter explaining the situation and a personal copy of the Alternative Employment procedure for their reference. They will be offered support by corporate Personnel in identifying key transferable skills and will be invited to prepare a Curriculum Vitae for circulation to each Director. They may also be given assistance in learning more about Recruitment and Selection techniques to help them in seeking another job either within or outside Eastbourne Borough Council.

3.4 During operation of the Alternative Employment procedure, the Chief Executive will brief Cabinet regularly (normally on a monthly basis) on progress.

3.5 The content of the briefing must be discussed with the appropriate Union and their comments relayed back to Cabinet. It should include details of where work of the same or similar character is currently undertaken within the Council and provide information on the payments which could be made to the employees concerned. Any other relevant facts should be presented to ensure that Cabinet is fully briefed.

3.6 It should be noted that the delegations for human resource decisions within Eastbourne Borough Council are as follows:

- Decision on principles of strategic direction, budgeting or operational matters with HR implications lies with **Cabinet**;
- Decision to dismiss by reason of Redundancy lies with the **Chief Executive and those Officers nominated by him for this purpose**;
- Decision on matters relating to discretions under the Local Government Pension scheme lies with a **Pensions & Enhanced Payments Panel** of Members of the Council – which should be convened, as appropriate, to follow a confidential Cabinet briefing where Alternative Employment matters are being concluded.

3.7 If the decision is to dismiss on the grounds of redundancy, the Head of

Personnel will inform the Secretary of State for Employment of any redundancies involving twenty or more employees.

3.8 Any employee dismissed on the grounds of redundancy will be entitled to:

- a period of Notice, depending upon their continuous local Government service; and
- if they have worked in Local Government for two years, a redundancy payment (subject to their age)
- and may be considered for discretionary payments, as determined by the Council, depending on their age and Local Government Pension Scheme membership. (Exercising of Discretionary powers – EBC Cabinet, September 2000)

3.5 The period of Notice due and the precise redundancy payments involved will be established and confirmed by Personnel. Any possibility of early release of Local Government pension without reduction for any affected employees over the age of 50 will be investigated. No employee can be dismissed as redundant

until at least 30 days have elapsed since the consultation at Paragraph 1.1. commenced. In the exceptional circumstance that the number of employees affected is greater than 99, the period of time from initial consultation should be a minimum of 90 days.

4.0 APPEALS

4.1 An employee may raise an appeal against decisions made under this procedure through the Council's agreed Grievance procedure, provided that at that time they are still employed by the Council. Where they raise an Appeal against Dismissal, this will be dealt with by Appeal Panel (process as for Stage 3, Disciplinary Appeals' Panel) and within the stipulated timescales.

4.2 In the event of any disagreement between the Director and the Head of Personnel as to the operation of this procedure, the Chief Executive will make a decision.

5.0 REDEPLOYMENT

5.1. Selection and Appointment under Alternative Employment provisions

- Displaced employees being considered for redeployment to a post of the same or similar character will be covered by the specific provisions of the Alternative Employment procedure. They will be interviewed and considered for redeployment on their own merits, but not in competition, for such a vacancy.

- Other permanent employees from within the Department with the vacancy may apply at the same time but will only be offered the appointment if considered by the Director to be **significantly more** suitable. For the avoidance of doubt, temporary employees on short-term assignments of less than 12 months working in the department are to be treated as external candidates.

- If there are any uncertainties regarding a displaced employee's ability to carry out the duties of the post, trial periods of at least four weeks and no longer than six months should be used to assess the individual's suitability.

5.2 Any employee redeployed will be given appropriate training in the responsibilities of his or her new job. A job description for the post must be supplied to the employee. It is not to be expected that they will be able to perform the full range of duties immediately. The criterion to be considered is whether it can be expected that an acceptable standard would be achieved within three months of appointment.

5.3 There may be occasions where a particular qualification, although normally required, should not be regarded a pre-condition of redeployment if the employee could be reasonably expected, within a minimum period of three months, to undertake the duties of the post to an acceptable standard. It may be reasonable to make it a condition of redeployment that the employee studies for a recognised qualification.

5.4 Any employee offered redeployment will be given a written offer

stating:

- the type of work and job description;
- the related training necessary;
- the location and hours of work;
- the salary/wage and other conditions of service, including protection arrangements, as applicable (see below);

- The length of any trial period, (minimum of four weeks) allowing for related training to be undertaken;
- Any other terms and conditions of employment relating specifically to the post into which they are being deployed.

5.5 If the offer of redeployment comes after the displaced employee has been given Notice of Dismissal, the employee **must** be given a trial period.

5.6 Terms and Conditions

If the basic salary/wage of the displaced employee, before they were redeployed under the Alternative Employment procedure, exceeds that of the job into which they are deployed, the employee's basic salary/wage at the date of transfer will be preserved on a personal basis. The employee will continue to receive any applicable nationally agreed pay awards on their personal salary/wage. However, incremental advance will not be applicable until/unless the basic wage/salary of the new job catches up with their personally protected salary/wage.

Where the difference in salary Band is such that the basic wage/salary of the new job will not catch up with their personally protected rate of pay, the redeployed person will retain their personally protected salary for a maximum period of two years. Thereafter, should they remain in the new post, their rate of pay will decrease to the top of the scale for that job.

5.7 Where an employee is so protected they will be encouraged to apply, as practicable, for any vacancy for which they are suitably qualified and which would be commensurate with their original salary/wage.

5.8 Where an offer of redeployment is made, the possibility of protection on a personal basis of additions to basic salary/wage such as bonus earnings and contractual/conditional overtime cannot be guaranteed.

5.9 In the circumstance where an employee is redeployed to a location more than 2 miles from their previous place of work, consideration will be given to any support needed in terms of additional travelling time or assistance with increased travel costs.

THE FOLLOWING ADDITIONAL PROVISIONS ARE OUTSIDE THE TERMS OF THE ALTERNATIVE EMPLOYMENT PROCEDURE

6.0 SELECTION AND APPOINTMENT

6.1 Displaced employees will, at all times, be encouraged to apply for vacancies within Eastbourne Borough Council which interest them and which may not be of the 'same or similar character' as the role from which they are displaced. Where they choose to do so, they will be considered in open competition alongside any other applicants and assessed, on their merits, in that equalities' context against the person specification. Corporate Recruitment and Selection standards and procedures will apply. Alternative Employment provisions for protection of salary will not apply.

6.2 A director, in consultation with the Head of Personnel, will give consideration to offering redeployment to any vacancy which is of an administrative or clerical nature, where it is found to be reasonable to do so. Such a role may not be of the same or similar character as the role from which the employee is displaced and it may be in a lower salary band. Alternative Employment provisions for protection of salary will not apply. Where the individual confirms interest in the role, Paragraph 5.4 applies.

6.3 Where a displaced individual chooses not to be appointed to a vacancy as described in paragraph 6.2 above, and where that vacancy is not of the same or similar character to the post from which they have been displaced, this decision will not affect any entitlement to redundancy payment.