

Redeployment Process

An Options Paper for Consultation

The Policy and Performance Unit, Human Resources
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1. Overview & Purpose of Paper

This is an options paper prepared as part of the consultation process surrounding our redeployment process. The purpose is to highlight key issues and options facing the council, and to illicit views and feedback.

The overriding challenges facing us financially, coupled with the legal and operational practicalities around redeployment, drive the need for these to be reviewed.

It should be remembered that as an employer we are committed to exploring all other options to avoid the need for redundancies, where possible.

2. Current Situation

The current arrangements for the redeployment pool have been in operation for approximately 12 months and during that time there have been quite a number of successful placements in fixed term and permanent positions, 22 employees in a fixed term capacity and 19 in a permanent capacity.

Ill health redeployments, both temporary and permanent, are likely to increase shortly with the introduction of the governments new "Fit Note" arrangements, and this will increase the pressure on the redeployment pool. (The operational details behind the current redeployment process are detailed in Appendix A.)

There is currently no time limit on the amount of time an employee can spend in the redeployment pool. In fact, a number of employees have spent considerable periods of time in the pool with either no successful trial periods or even the commencement of a trial period. Employees are currently protected on their current grade for a period of three years from the date that they are redeployed. Not only is this a budgetary issue but it is also an issue in that there are implications of potential unlawful disparity in pay issues (equal pay).

Employees are not issued with notice when they enter the redeployment pool because of the Council's current stance of no compulsory redundancies. However, this is causing problems and it is thought that there is a need to limit the amount of time that an employee spends in the redeployment pool.

Given the financial challenges ahead of us, it will not be possible to achieve the savings targets in the medium term financial plan (MTFP), without having clearly defined time periods for both the redeployment and protection elements of the process. This obviously needs to be balanced with a genuine desire on the councils part to redeploy "displaced" individuals wherever possible, thus avoiding a redundancy situation, and its reputation as a fair employer.

Additionally if there is no suitable post available to employees at the end of their period within the redeployment pool, they may be eligible for a redundancy payment. If an employee refuses a post that is deemed to be suitable alternative employment, they will be deemed to have terminated their contract without the payment of a redundancy payment (subject to notice).

It is recognised that there is obviously a cost element to this requirement and it would require a change to the current Council stance on redundancies. Any potential redundancy costs would need to be factored into the restructuring costs of the releasing Service Area. If the employee were successful in obtaining a post through the redeployment process, these costs would be additional savings for the Service Area. Prior to an employee being placed in the redeployment pool. Managers should ensure that there are no vacancies within their Service Area (these include temporary vacancies for which agency staff may well be being utilised).

If CMT agree to limit the amount of time spent in the redeployment pool it will focus employees who are currently unwilling to accept redeployment opportunities, as they will then be aware that they cannot stay in the redeployment pool for an unlimited period of time.

In changing the redeployment process there are a number of options that can be looked at in terms of the time that an employee spends in the redeployment pool and the protection arrangements afforded to employees.

3. Options

In terms of the time an employee spends in the redeployment pool there are options that the Council can consider at this time (3.1 and 3.2), which relates to time spent in the redeployment pool. There are also options to consider with the protection arrangements related to employees who accept lower paid posts under a redeployment scenario (3.3)

3.1 Time Spent Within the Redeployment Pool

Option 1 – Fixed Period

The first option relates to employees having a limited period of time in the redeployment pool and their notice period would run concurrently with this time in the redeployment pool.

It is suggested that this period is 12 weeks, which is the longest notice period that an employee would be entitled to under their contract of employment.

Fixed Period Of Time In The Redeployment Pool	
Pros	Cons
<ul style="list-style-type: none"> • Employees are aware of the length of time that they have in the redeployment pool and know that at the end of that period, if they have not secured an alternative post, their contract will be terminated. • Financial costs of redeployment will be limited for the releasing Service Area and the Council as a whole. • All employees receive the same number of weeks in the redeployment pool. • It focuses an employee's mind on the fact that their time in the pool is limited and that they have to work with the Council to secure a post, if possible, within their period in the redeployment pool. 	<ul style="list-style-type: none"> • This will make the likelihood of successful redeployment more difficult as there is a shorter defined period • It is unlikely that we will be successful in redeploying all staff, and therefore some staff may leave under redundancy.

Option 2 – Fixed Period + Notice Period

The second option that the Council has is to give employees a fixed period of time in the redeployment pool followed by the contractual notice (which is dependant on the employee's length of service) that they are entitled to. This will mean that the minimum period of time that an employee will spend in the redeployment pool is thirteen weeks (12 weeks plus one week's contractual notice)

and the maximum time an employee will spend in the redeployment pool is twenty - four weeks (12 weeks plus 12 weeks contractual notice).

Fixed Period Of Time In The Redeployment Pool And Then Contractual Notice	
Pros	Cons
<ul style="list-style-type: none"> • Employees are aware of the length of time that they have in the redeployment pool and know that at the end of that period, if they have not secured an alternative post, their contract will be terminated. • Financial costs of redeployment will be limited for the releasing Service Area and the Council as a whole albeit that they will be more than in the option outlined above but less than currently. • The Council would be seen to be acting fairly in that everyone has a stipulated time in the redeployment pool and then their legal entitlement to their contractual notice. • It focuses an employee's mind on the fact that their time in the pool is limited and that they have to work with the Council to secure a post, if possible, within their period in the redeployment pool. 	<ul style="list-style-type: none"> • Everyone will have the same basic period of time in the redeployment pool, but due to differences in contractual notice will have varying total lengths of time. • It is unlikely that we will be successful in redeploying all staff (albeit the additional time period over the earlier option does reduce this risk), and therefore some staff may leave under redundancy.

Views are therefore sought on the redeployment period.

3.2 Trial Periods

Currently if during their period in the redeployment pool, the employee obtains a post, the 'clock will stop' until it is established whether the employee is suitable for the post or not via the trial period. If the employee is not suitable for the post and ends back in the redeployment pool, they will go back into the pool for the remaining number of weeks of their notice period up to the total of 12 weeks or 12 weeks plus contractual notice, whichever is decided. However, this is inconsistent with the provisions of the Employment Rights Act 1996 regarding trial periods. Therefore it is possible that the clock will not stop when employees commence a trial period thus giving them a total of 12 weeks (including trial periods) or 12 weeks plus contractual notice (including trial periods) in the redeployment pool depending on which option above becomes operational. A decision will therefore be required around whether a trial period in a post "stops the clock" on any period of redeployment.

During a trial period an employee should be paid at the rate of their old job. The purpose of the trial period is to give the employee the chance to decide whether or not to accept the alternative job on the terms and conditions offered and for the Manager to see if the employee is suitable for the post in question. If an employee is offered and turns down a suitable post, a post that is deemed to be suitable to their skills and abilities, they will be deemed to have made themselves redundant and their contract will be terminated and no redundancy payment will be forthcoming.

If an employee attempts a trial in a post and it is then agreed that they are unable to fulfil the duties (i.e. they are not at fault), they will be entitled to go back into the redeployment pool for the remainder of their notice period in the pool, if time limiting is approved, and if there is no suitable post is available then their contract will be terminated by way of redundancy and they will receive a redundancy payment.

In terms of trial periods, the process currently states that employees are allowed a trial period of 4 weeks which can be extended if the employee is not quite up to speed with the skills of the post. However, legally, if the employee goes over the 4-week trial period they could lose their redundancy payment unless a longer trial period is agreed at the start of the period as a result of a need for training to undertake the duties of the post. This is an area where we need to tighten up our

timescales in terms of trial periods as some Directorates are offering 8 weeks in the first instance. If an employee is transferring to a completely new area where a new set of skills is required, we should be agreeing a longer trial period at the start as a result of the training requirement. In all other cases, the 4-week trial period should be enforced.

Employees are allowed up to a maximum of two trial periods. If these are unsuccessful, the employee will remain in the redeployment pool for the remainder of their notice period and then terminate, with a redundancy payment if eligible, on the date that they have been given.

Views are therefore sought on the principle of “stopping the clock” for trial periods.

3.3 Protection Arrangements

A further area where the Council has options is the area of protection of salary when an employee is redeployed. Historically employees were afforded a protection period of three years from the date of redeployment.

This is a provision that has been in place for a number of years prior to job evaluation and under the Single Status Agreement three years protection was adopted for employees whose grade had gone down. It should be noted that with the exception of the Single Status Arrangements, in practical terms this was required on few occasions, and certainly not in the potential volumes that we will be dealing with in the MTFP.

This period of protection is funded by the releasing department and needs to be factored into their calculations when they are looking at the redeployment of employees within their Service Areas. If the 3-year period were to be maintained, it would make the achievement of any savings targets in the MTFP more difficult, as full savings would not be realised for at least 3 years. This would potentially place a greater savings target under the MTFP, and could lead to a greater number of staff being effected and requiring redeployment / redundancy.

There are three principal options currently being considered as available to the Council: -

Option 1 – 3yrs Protection – Maintain the “Status Quo”

Pros	Cons
<ul style="list-style-type: none"> • No change to current arrangements. • Maintains employer image of CCBC 	<ul style="list-style-type: none"> • Cost of funding the protection for the releasing Service Area and thus the Council. As a result they may not be able to meet their savings within the specified timescales – increasing staff numbers being displaced. • Implications of potential unlawful disparity in pay issues. • Not fair and equitable under case law and the stance taken by the trade unions during the Single Status Agreement negotiations. • Negative impact on the morale and motivation of employees working with colleagues on protected salaries. • Potential grievances in relation to pay.

This will obviously not raise any general employee relations issues but there will be a continued cost implication, savings will not be achieved in a timely manner, the negative effect on morale and motivation, possible grievances in relation to pay and there are the implications of potential unlawful disparity in pay issues (Equal Pay).

Option 2 – Reduce the period of protection to One Year, Two Years Or Eighteen Months

Pros	Cons
<ul style="list-style-type: none"> Reduction in the costs to the releasing Service Area and Council. Reduces the implications of potential unlawful disparity in pay issues. Reduces the negative impact on the morale and motivation of employees working with colleagues on protected salaries. Reduces any potential grievances in relation to pay. Greater likelihood of meeting cost savings in the MTFP Minimises any impact on CCBC’s reputation as an employer. 	<ul style="list-style-type: none"> Provides reduced financial cushion to those being redeployed

This option will obviously create savings for the Council and allow the releasing Service Area to achieve their savings in a timely manner, but there are possible employment relations issues.

There is a further alternative whereby the protection could be in place and “tapered off”, allowing a gradual progression for the employee concerned to adjust to the new salary. For example 100% of the difference in salary fully protected for a year, 75% of the difference for up to 18 months, and 50 % of the difference up to 2 years etc. Variations on a theme are possible under this type of scenario.

Option 3 – Remove all Protection Arrangements

Pros	Cons
<ul style="list-style-type: none"> Reduction in the costs to the releasing Service Area and Council. Removed the implications of potential unlawful disparity in pay issues. Removes the negative impact on the morale and motivation of employees working with colleagues on protected salaries. Removes any potential grievances in relation to pay. Greatest likelihood of meeting cost savings in the MTFP 	<ul style="list-style-type: none"> Possible cost of a redundancy payment if an employee refuses the lower grade post. Provides no financial cushion to those being redeployed Possible impact on reputation of CCBC as an employer

The pros and cons of this option are broadly the same as the one above, except that the savings for the Council and the releasing Service Area are achieved sooner and the fact that a redundancy payment potentially becomes payable if the employee does not choose to accept the post. A job on a lower salary is less likely to be deemed a suitable alternative employment, dependant upon the value of the drop in salary. If the employee is not prepared to agree to the lower salary, a redundancy dismissal may still stand. An employee in these circumstances would have the right to refuse the alternative lower-paid post on the grounds that it was not suitable and would retain their right to a redundancy payment.

Employees will not normally be redeployed into a higher graded post, as this would be deemed unfair, as it could be a promotion opportunity for the redeployee and other colleagues.

Views are therefore sought on the principle of payments being made for protection periods.

4. Conclusion

Views of Management Teams, Employees, Trades Unions and Scrutiny Members are being sought as part of this consultation process, prior to a report to Corporate Management Team and Cabinet.

Redeployment Pool – Operational Arrangements

Prior to an employee being placed in the redeployment pool. Managers should ensure that there are no vacancies within their Service Area (these include temporary vacancies for which agency staff may well be being utilised).

Step 1

1. Potential redeployment identified, either because the post is no longer required in the structure or a fixed term contract is coming to an end.
2. The Directorate Human Resources Unit confirms the genuineness of the redeployment.
3. If the redeployment is not deemed to be genuine, the employee is not placed in Redeployment Pool and the Manager must then address any performance or attendance or other issues.
4. If the redeployment is genuine, the employee completes a profile and forwards to the Directorate Human Resources Unit.
5. The Directorate Human Resources Unit uploads the employee's details to the register on the W drive.

Step 2

1. The Business Case form to advertise a post is forwarded from the Manager to their Director for signature. This is then forwarded to Corporate Human Resources who check against the redeployment register to see whether there are any possible candidates for the post. The schedule provided to CMT highlights the basis that the request to advertise is made.
2. CMT approval to fill the post is obtained, together with the basis on which the advert can be placed. i.e. internal advert, external website advert, external press advert, etc. The redeployment pool is always trawled first for suitable candidates and the job descriptions of the posts circulated to Directorate Human Resources Units. The Directorate Human Resources Units forward the vacancies to the employees in the redeployment pool asking them whether they wish to be given prior consideration for the post. If there are no suitable candidates in the redeployment pool or there is no one interested in being considered for the post, then the post is advertised on the basis granted by CMT.
3. If there are no possible matches in the redeployment pool, then the post is advertised immediately. If an employee wishes to be considered for a post that was not automatically thought to be an obvious match, the releasing Directorate's Directorate Human Resources Unit will contact the relevant Manager and ask for the employee to be given prior consideration.
4. Once a candidate has expressed an interest in a particular post, the Directorate Human Resources Unit for the releasing department will contact the relevant Manager to arrange for an informal interview to take place. After the informal interview, if the employee and the Manager are happy with the match, or believe that the match could be made with some training, then the employee commences a trial period of at least 4 weeks up to a maximum of 8 weeks. If there is more than one employee interested in the post then a competitive interview takes place.
5. During the period in the redeployment pool and the trial period, the releasing Service Area will continue to pay for the salary of the employee.
6. Once the trial period is complete, the employee will either be confirmed in the post or return to the redeployment pool to look for a further redeployment opportunity. Employees are entitled to two trial periods but in reality they are currently receiving more trial periods than this.