



POLICY AND RESOURCES SCRUTINY COMMITTEE – 5TH OCTOBER 2010

SUBJECT: REDUNDANCY SELECTION CRITERIA

REPORT BY: DEPUTY CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 This report recommends for approval a methodology for selecting employees for redundancy (Appendix 1) to be presented to the appropriate recognised trade unions for consultation.

2. SUMMARY

- 2.1 Handling a redundancy exercise requires considerably more than merely complying with the basics of statutory employment law. Employers are expected to operate within a well-defined procedural framework and to follow specific legal provisions, which underpinning good practice in a redundancy situation.
- 2.2 The proposed redundancy selection criteria, which takes account of relevant legislation and case law, is intended to be a key tool within such a procedural framework. The proposed redundancy selection criteria would come into use where it becomes necessary to select potential candidates for redundancy from a pool of employees employed within identified posts.
- 2.3 The methodology for selecting employees for redundancy is a major item on which employers have to consult employee representatives. Given the current economic background it is now considered appropriate to engage in consultation with the recognised trade unions with regards to the detail of a redundancy procedural framework. It is recommended that the proposed redundancy selection criteria tool from part of that consultation.

3. LINKS TO STRATEGY

- 3.1 The redundancy selection criteria links to the People Management Strategy and therefore to all other strategies that rely on employees to deliver the strategy and service provision.

4. THE REPORT

- 4.1 Essentially, there are two sorts of redundancy situations, which could trigger the need to select employees for redundancy from a pool of potential candidates. The first is where there is a specific decline in the need for the workforce in certain functions or areas. The second is where there is a general need to reduce the workforce as a whole.
- 4.2 In developing the proposed redundancy selection criteria much consideration was given to developing suitable redundancy selection criteria and scoring mechanism that underpinned good practice and met the numerous legal requirements that need to be considered. These include the following:

- (i) Development of selection criteria that is clear, objective and precisely defined. The pool for selection and the selection criteria should be clear and understood by managers, employees and employee representatives.
- (ii) To provide of a tool, which when applied, supports Managers through a process in a manner which is reasonable, fair and objective and does not discriminate against staff on the grounds of age, sex, race, disability or part-time status.
- (iii) Moreover, selection may also be unlawful under one or more of the discrimination statutes, where the criteria are indirectly discriminatory. This may occur when a provision, criterion or practice is applied which puts or would put a protection group, including the individual concerned, at a particular disadvantage and which cannot be justified.
- (iv) In addition, the proposed tool does not support criterion which could lead to a redundancy dismissal being found to be an unfair dismissal if it is shown that the employee's selection for redundancy was for one of a number of specified reasons. Some of the most common reasons are set out below:
 - health and safety reason;
 - making a protected disclosure;
 - taking protected industrial action;
 - being an employee representative for the purposes of consultation on redundancy transfer or undertakings;
 - the employee's membership or non-membership of a trade union, or participation in trade union activities;
 - trade union recognition or de-recognition;
 - for reasons connected with pregnancy, maternity, parental leave or dependant care leave;
 - due to the transfer of an undertaking or for a reason connected to a transfer or an undertaking that is not an economic, technical or organisational reason.

4.3 When defining selection criteria the impact upon the future shape and composition of the workforce in terms of age, race, sex, disability, skills and working arrangements (e.g. full-time or part-time) was also considered.

4.4 Critically, the proposed selection criteria and scoring mechanism has been designed to incorporate measures to help the Council retain those employees with the key skills, experience and tracked performance required.

4.5 Five separate and distinct criteria for selection, as follows, are proposed.

- (i) Performance
- (ii) Job Profile
- (iii) Attendance (excluding absences related to pregnancy, maternity, DDA, Industrial Injury etc)
- (iv) Disciplinary
- (v) Service

4.6 Please see Appendix 1 to view the scoring mechanism for each of the above selection criteria.

4.7 The score for each of the above selection criteria should then be added together to provide a total score. Those employees who score the least will be selected for redundancy.

4.8 The selection criteria should be transparent and open and shared with those post holders occupying a ring fenced post. Each individual should be provided with their personal scores.

- 4.9 It should be noted that where an employee(s) has been selected for redundancy the Council will seek reasonable measures to avoid dismissal through initiatives such as redeploying the individual into appropriate alternative available work.
- 4.10 In line with the selection criteria the proposal is to add a section into the end of the PDR process where managers can advise whether the employee has exceed, met or not met the objectives they have been set over the previous period of the review. This will ensure that the performance section of the criteria can be objectively evidenced.

5. FINANCIAL IMPLICATIONS

- 5.1 If a robust process is not adopted the authority may be challenged on individual cases of unfair dismissal and costs incurred.

6. PERSONNEL IMPLICATIONS

- 6.1 Consultation with appropriate recognised trade unions.

7. CONSULTATIONS

- 7.1 Personnel Managers.

8. RECOMMENDATIONS

- 8.1 To agree the redundancy selection criteria, as set out in Appendix 1, for consultation.

9. REASONS FOR THE RECOMMENDATIONS

- 9.1 To ease any future redundancy consultation process.

10. STATUTORY POWER

- 10.1 In the main legislation on redundancy are to be found in:
- (i) Trade Union and Labour relations (Consolidation) Act 1992 (TULR©A) (as amended);
 - (ii) Employment Rights Act 1996;
 - (iii) The transfer of undertakings (Protection of Employment) Regulations 2006 (SI2006/246).

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Appendices:
Appendix 1 Redundancy Selection Criteria