



Managing Restructures and Changes of Terms and Conditions

Revised July 2021

1.	Introduction
1.1	<p>This Council is committed to ensuring that it has an organisational structure in place that delivers cost effective services to the people of Wyre. This structure is reviewed periodically to reflect service requirements and the need to achieve corporate performance objectives. This means that it becomes necessary to introduce changes to the staffing levels from time to time.</p> <p>The document provides a framework for managing change effectively, fairly and consistently, through planning, consultation, and communication and in accordance with established good practice and employment legislation. This restructuring process will apply to all groups of staff other than Chief Officers.</p>
2.	Delegated Powers
2.1	<p>The Officer Delegation Scheme - Record of Decision Form is the document used to record and collate the approval from all stakeholders to a proposal that involves a change in staffing resource. It is mandatory for all amendments to the structure, staffing levels or terms and conditions of employment.</p>
2.2	<p>A copy of the Officer Delegation Form can be found on the intranet.</p> <p>For minor changes the proposals can be outlined in the Summary of Recommendations.</p> <p>For major changes or a series of changes involving a wider group of staff, teams or services (such as a restructure) a separate more detailed report should be attached.</p>
3.	Managing Minor Change
3.1	<p>It is recognised that there may be occasions where managers need to implement changes to working practices in order to meet changing business needs more effectively. Although this may bring about significant change in the way staff operate from day to day, the change to staffing structures and individual terms and conditions could be relatively minor.</p>
3.2	<p>These changes should be documented using the Officer Delegation Form and managers should always consult with Human Resources if the proposed changes, however minor, affect the individual's terms and conditions of employment.</p> <p>Following consultation with Human Resources, managers should meet with staff either individually or collectively to explain the need to implement the changes and to ask for views before implementation.</p> <p>See 'Guidance notes for the completion of Officer Delegation Scheme Form' for</p>

3.3	<p>more detailed guidance on how to document your proposal.</p> <p>Staff may wish to be accompanied by a trade union representative or colleague at a meeting to discuss changes to duties and working practices and this should be permitted.</p>
4.	<p>Managing Major Organisational Restructure</p>
4.1	<p>Where there is an organisational restructure that may result in changes to terms and conditions of employment, significant job change and/or redundancies then the following process must be followed:</p> <p>Management Planning (Pre-consultation)</p> <p>4.2 Managers considering organisational change that may impact on staff must gather information to support the need for change and build in appropriate timescales for planning their restructure. This should include adequate time for drafting their report, the appropriate formal consultation period and sufficient time for implementation of the changes, including notice periods if redundancies are proposed.</p> <p>4.3 Once managers have established their business case for making changes and developed their proposals in relation to their new structures they will need to:</p> <ul style="list-style-type: none"> ➤ Produce a report outlining their proposals with input from Human Resources and Financial Services. ➤ Obtain approval through the Officer Delegation Scheme, Corporate Director and/or Corporate Management Team in order to proceed to formal consultation and implementation. <p>4.4 It is important for managers to have a clear and accurate understanding of their current establishment in terms of the number of employees, post numbers, grades, hours, fixed term/permanent staff and details of employees who are on maternity/adoption or long term sick leave, etc.</p> <p>All new posts must have job descriptions and person specifications that have been subject to Job Evaluation.</p> <p>If redundancies are likely then managers are advised to obtain the potential cost as early as possible in the process. This includes the potential estimated costs for redundancy payments and the costs for early release of pension for employees who are over 55.</p>
5.	<p>Writing a Proposal</p>
5.1	<p>The report should be written in consultation with Financial Services and Human Resources and must include the following information:</p>

- A clear rationale for making the changes / including the benefits of the proposals;
- Details of the current position including staffing structure and post numbers;
- The proposed staffing structure and how it will operate;
- The number and grades of staff who are at risk of redundancy, the measures to be taken to avoid potential redundancies and the proposed method of selecting the staff at risk of redundancy.
- The proposed method of recruitment to any new posts, ensuring that all appointments are made strictly in accordance with Corporate Policies.
- The financial implications of the proposals and reference where appropriate to entitlements to redundancy payments, protected pay arrangements or early release of LGPS pension.

5.2 **Assimilation**

Assimilation applies where an employee is matched to a post without the need for an interview and:

- the duties of the postholder's substantive role remains substantially the same in terms of grade, responsibility and job content.
- the essential requirements of the person specification are met
- there is only one person eligible for the post, or the number of eligible persons and number of posts equate.

Once an employee has been identified as suitable for assimilation to a post, it should not be proposed that they be ring-fenced to any other position within the new structure.

Where there is more than one person 'matched' for a post or where the number of staff 'matched' is greater than the number of posts available the post will be ring-fenced.

5.3 **Ring-fencing**

Ring-fencing will apply where substantially similar roles are available but there are more matched employees likely to be displaced than available matching posts.

In which case the posts are reserved and 'ring-fenced' to those 'matched employees' i.e. those who would otherwise have met the criteria for assimilation.

Or

Where less similar roles are available but it is deemed that the new posts are potentially suitable for those staff in the same area of work whose posts are being deleted or substantially changed.

The number and nature of 'ring-fences' will be determined through consultation, and posts will be filled on a cascade basis meaning that higher graded posts will be dealt with first.

5.4 Fixed term / temporary employees

Temporary employees, who were appointed following a competitive selection process, may be considered for 'assimilation' or 'ringfencing' within the restructure process, provided they have at least two year's continuous service in that matching post. Short term temporary staff and seasonal staff are therefore excluded from this process.

5.5 Employees on maternity leave

Employers are under a statutory obligation to offer employees on maternity leave any suitable alternative vacancy. This means that if a vacancy that is suitable for the employee exists she must be offered the post even if this means that she is treated more favourably than other employees who are also at risk of redundancy.

Managers are strongly advised to seek advice from human resources if one of their employees affected by the restructuring is on maternity leave.

5.6 Other considerations

Any individual whose existing post either no longer exists or whose post has "changed" will become part of a pool of at risk staff. Any new posts or vacancies identified as part of the restructure should be 'reserved' for this at risk group in the first instance,

5.7 Assimilated staff are not part of this pool and will not be able to apply for these posts until the posts are opened up for competition to all council employees.

5.8 Salary protection will apply to any individual appointed up to two grades below their substantive post. Salary protection will apply for 18 months from the date of appointment.

Clearly there are a number of issues to be taken into account and final decisions on the filling of posts cannot be taken until after the consultation process is concluded. However those affected will be informed of their "at risk of redundancy" status at the commencement of the consultation process.

6.	Formal Consultation.
6.1	<p>Approval to commence consultation.</p> <p>Managers will need to complete the Officer Delegation Form and obtain initial approval from their Corporate Director or Chief Executive, Financial Services and Human Resources <u>before</u> staff / trade union consultation can commence.</p> <p>In addition any proposal for early release must be considered by the Chief Executive in consultation with the Corporate Director Resources (and Section151 Officer).</p> <p>Managers must be guided by human resources when consulting on any organisational restructure that may result in changes to terms and conditions of employment, significant job change and/or redundancies.</p>
6.2	<p>Starting the process.</p> <p>There are no set rules regarding the duration of the consultation period unless the statutory provisions described below apply. Human Resources will advise on what may be a fair and acceptable period given the complexity of the report.</p> <p>Similarly there are no set rules on the number of meetings that need to be held. What is appropriate will depend on the suggestions put forward and the questions arising.</p> <p>The Head of Service and / or human resources would normally inform appropriate local trade union representatives of the intention to commence consultation. They should be given the initial consultation document, draft job descriptions, person specifications and offered the opportunity to comment on the proposal, the grading process and intended procedure for achieving the restructure.</p>
6.3	<p>Consultation will commence with an initial meeting with affected staff members to announce the restructure. At this meeting, you would set out the background and explain why the change is necessary, describe the differences between the current and proposed structure and how it would affect the service. As this is a sharing of information there is no entitlement to be accompanied by a trade union representative or colleague at this first meeting.</p>
6.4	<p>Staff should be encouraged to spend time reading the restructure report and to put forward any suggestions that they may have. They can ask any questions or raise any concerns, although it would be prudent to deal with any individual concerns at the follow up consultation meetings.</p>
6.5	<p>Consultation meetings:</p> <p>The Council is legally obliged to consult with staff on all contractual changes and to try and agree these by consensus. Consultation meetings should be arranged</p>

as soon as the initial meeting has taken place. Staff may be accompanied by a trade union representative or colleague at these meetings.

6.6 Each member of staff must be allowed the opportunity to express their views, to raise any questions, and to discuss how the changes are likely to affect them personally. Managers must also ensure that they discuss individual options and explain how proposals for ring-fencing / assimilation were reached and the criteria for selection in any competitive process.

6.7 **Keeping records**

It is important that written records are kept of all stages of the consultation process, including minutes of meetings and all communications with unions, employee representatives and individual employees.

6.8 **Statutory provisions for consulting in redundancy situations**

Where the Council is faced with a potential redundancy situation or where a restructure is likely to result in a variation of contracts there are certain statutory provisions it has to comply with under S.188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and subsequent legislation.

The Council recognises three trade unions (Unison, GMB and UCATT) for the purpose of collective consultation for proposed redundancies and the dialogue would normally start during the formal trade union meetings (consultative groups or joint negotiating committee.)

The statutory provisions set out a clear framework for formal trade union consultation and the human resources team will take the lead in such cases. Unilaterally imposing change without carrying out meaningful consultation may lead to grievances or constructive dismissal claims against the Council. Should a re-structure lead to the individual being made redundant, without appropriate consultation, the Council would be at risk of a complaint to an Employment Tribunal.

6.9 **Timescales for collective consultation:**

Where proposals are made that between 20 and 99 staff members are at risk of redundancy at one establishment within 30 days, consultation should begin at least 30 days before the first dismissal is to take effect; and

Where 100 or more are at risk of redundancy at one establishment within 45 days, consultation should begin at least 45 days before the first dismissal is to take effect.

Where proposals are that 19 (or fewer) are at risk of redundancy, there is no statutory need for collective consultation. However, individual consultation and local collective consultation would still apply.

	<p>Note these consultation timescales also apply where a variation of terms are likely to be imposed following a process of dismissal and re-engagement.</p> <p>Human Resources will take the lead in all such cases.</p>
7.	Decision to Proceed
7.1	<p>At the end of the consultation period the Head of Service, in conjunction with the Chief Executive / Corporate Director, will consider all comments and make a decision on the way forward.</p> <p>If the decision is to proceed with a change to the current structure, the reasons for the decision will be confirmed in writing to the staff and trade unions prior to implementation.</p>
7.2	<p>The Human Resources Section will be responsible for the overall co-ordination of all 'appointments' made as a result of restructuring. Letters regarding notification of changes, assimilation or ring-fence proposals will be issued by Human Resources and all staff will be required to provide their written agreement to any contractual changes.</p>
8.	Equality Impact Assessment and Monitoring
8.1	<p>The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.</p>
9.	Data Protection
9.1	<p>In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line Data Protection .</p>