

Brighton & Hove City Council

Finance Strategy and City Regeneration Committee

Agenda Item 64

Subject: Improvements to the Council's Redeployment Procedure

Date of meeting: 5 October 2023

Report of: Executive Director Governance People & Resources

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1. The purpose of this report is to recommend improvements to the council's approach to redeployment, applied in situations where there are service changes that put staff at risk of redundancy. Currently staff are entitled to redeployment rights if they have 2 years' service, and this report recommends a change to provide more staff with redeployment rights from the start of their employment.
- 1.2. The recommendations of this report sit within a wider context, whereby the council works closely with both staff and recognised trade union colleagues, to manage change effectively, and avoid compulsory redundancy where possible. The redeployment policy is an important part of this approach, and it is felt important to make these proposed improvements to ensure the council is applying best practice in its approach to change management.

2. Recommendations

- 2.1 That Committee agrees to change the qualifying service requirement in the redeployment policy as follows (proposed changed wording in bold):

*Employees will be entitled to go onto the redeployment register if their continued employment is at risk due to redundancy if they have over 2 years service, **or if they have under 2 years service but are on an employment contract that is due to be at least two years' duration.***

- 2.2 That Committee agrees the draft amended Redeployment Policy at Appendix 2.

3. Context and background information

- 3.1 The current Redeployment Policy states employees are entitled to go onto the redeployment register when continued employment is at risk due to redundancy or ending of a temporary/fixed-term contract, but only where they

have over 2 years' service.

- 3.2 This policy clause links to the point in time when employees have the right to claim unfair dismissal through an employment tribunal process. These rights are accrued when an employee reaches 2 years continuous employment, and this was the reason the current council policy also applies that approach to the application of redeployment rights.
- 3.3 During the process of considering a change to this policy, information has been sought from other local authorities. There are varying practices, with many authorities applying one year as the minimum service, and many authorities applying no qualifying period. Where there is no minimum service, it is common for authorities to apply some restrictions for staff who are on fixed term contracts.
- 3.4 Across the council, some staff are employed on very specific fixed term contracts or on seasonal contracts. It is important to retain the ability of the council to use, where necessary, these flexible and agile arrangements to meet short term needs. However, where staff are employed on either permanent contracts, or fixed term contracts of over 2 years, it is felt appropriate to provide redeployment rights from day one of employment.
- 3.5 This will enable the council to retain valued skills and experience and apply effective redeployment processes to offer other opportunities to valued staff who may be at risk of redundancy due to service changes.
- 3.6 The equalities implications section of the report also demonstrates that our workforce profile, for those with less than 2 years' service, has a greater diversity than our overall workforce profile. Making this change is important in ensuring potential systemic or unconscious bias in our approach to redeployment is removed.

4. Analysis and consideration of alternative options

- 4.1 Alternative options have been considered, including consideration of the approach taken in other authorities (as discussed in section 3 above). It is felt that the proposed approach balances the need for flexibility and agility in the use of short-term contracts (such as seasonal posts or fixed term posts for the completion of a set project), with ensuring those staff employed in longer term positions are provided with redeployment rights from day one.

5. Community engagement and consultation

- 5.1 Consultation and discussions with Trade Union colleagues have taken place, and in the light of learning from previous change exercises.
- 5.2 A full lesson learnt process was carried out with Trade Union colleagues to gather learning from the 23/24 budget process. The approach to redeployment was highlighted in that review, and this report addresses some of the concerns raised.

- 5.3 Some comments have been made, that ask for redeployment rights to be offered for all employees from day one. This has been considered, and it is concluded that to offer redeployment to seasonal or short-term fixed term staff would be administratively difficult and disproportionate, particularly given some of these staff would not want further employment with the council following their fixed term contract (such as students undertaking seasonal roles). In addition all staff have full access to openly advertised vacancies.
- 5.4 Trade union colleagues have been asked if they would like any comments to be submitted to the committee in writing (see appendix 3).

6. Conclusion

- 6.1 The proposed changes provide more security of employment for those with under two years' service and supports our aim to embed equality and diversity in everything that we do.

7. Financial implications

- 7.1 There are no direct financial implications arising from the recommendations of this report. There is a risk that a wider group of employees with access to the redeployment pool could limit redeployment opportunities and potentially increase the possibility of redundancy and therefore redundancy costs, however this is unquantifiable and represents a low risk.

Name of finance officer consulted: James Hengeveld Date consulted:22/09/23

8. Legal implications

- 8.1 There is a statutory duty to try to offer suitable alternative employment to employees at risk of redundancy.
- 8.2 Employees with more than two years' service could claim unfair dismissal if there is suitable alternative employment and we do not offer it as an alternative to redundancy.
- 8.3 Employees with less than two years' service do not currently have unfair dismissal rights or the right to redundancy pay.
- 8.4 In respect of redundancy then there is an obligation to offer suitable alternative employment (if available), and the consequence for unreasonable rejection of this employment is generally the foregoing of the statutory redundancy payment. To not offer alternative employment (if available) could amount to an unfair dismissal – if two years' continuous employment had been attained.

Name of lawyer consulted: Chris Kingham Date consulted (07/09/2023):

9. Equalities implications

- 9.1 Data shows that a higher percentage of our workforce with under 2 years service are BME

Workforce profile by ethnic group	<2 years' service	2+ years' service
BME	14.1%	8.6%
White - British	70.4%	81.7%
White - Irish	2.0%	2.2%
White - Other	13.4%	7.5%
Grand Total	100.0%	100.0%

Workforce profile by disability	<2 years' service	2+ years' service
Disabled	9.3%	8.3%
No disability	90.7%	91.7%
Grand Total	100.0%	100.0%

Workforce profile by sexual orientation	<2 years' service	2+ years' service
Heterosexual / Straight	80.0%	86.5%
LGBTQ+	20.0%	13.5%
Grand Total	100.0%	100.0%

Supporting Documentation

1. Appendices

1. Current Redeployment Policy
2. Amendment Redeployment Policy
3. Email to Trade Unions dated 14.9.23