

# Management of change policy

**Draft 2022**



**Transform**  
Tewkesbury Borough



**Tewkesbury  
Borough Council**

## Contents

<b>SUMMARY</b>	<b>4</b>
<b>POLICY STATEMENT</b>	<b>6</b>
<b>SCOPE</b>	<b>6</b>
<b>DUTIES</b>	<b>6</b>
<b>TYPES OF CHANGE</b>	<b>9</b>
<b>NON CONTRACTUAL CHANGE PROCESS</b>	<b>9</b>
<b>MINOR CHANGES PROCESS</b>	<b>9</b>
<b>SIGNIFICANT CHANGE PROCESS</b>	<b>10</b>
<b>BUSINESS CASE FOR PROPOSED SIGNIFICANT ORGANISATIONAL CHANGE</b>	<b>10</b>
<b>CONSULTATION FOR SIGNIFICANT ORGANISATIONAL CHANGE</b>	<b>11</b>
<b>ALLOCATION AND SELECTION PROCESS</b>	<b>14</b>
<b>STAGE 1A AND 1B</b>	<b>16</b>
Stage 1a – Non-competitive allocation to a post	16
Stage 1b – Allocation to a Pool	16
Provisional Outcomes	17
Request for Review	17
Confirmation regarding Stage 1a and 1b	17
<b>STAGE 1C – SELECTION PROCESS FOR THOSE ALLOCATED TO A POOL</b>	<b>18</b>
<b>STAGE 2 – SUITABLE ALTERNATIVE EMPLOYMENT</b>	<b>18</b>
Trial Periods and Training	19
<b>STAGE 3 – REDUNDANCY</b>	<b>19</b>
<b>NEW JOB OPPORTUNITIES IN THE STRUCTURE</b>	<b>21</b>
<b>RIGHT OF APPEAL</b>	<b>21</b>
<b>TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 (TUPE)</b>	<b>23</b>
<b>SUPPORT FOR STAFF</b>	<b>24</b>



## SUMMARY

This page summarises the key points of this policy. The full policy should be read to ensure that the requirements are complied with.

Three types of change are recognised within this policy: non-contractual change, minor change and significant organisational change. This allows the changes which will have the greatest impact to be given the greatest levels of scrutiny and consultation whilst also enabling the organisation to move with agility for non-contractual and minor changes.

Where significant changes are proposed, meaningful and appropriate consultation will take place with trade unions.

Staff will have the right to be accompanied by a recognised trade union or work colleague at formal meetings to discuss any organisational changes which may affect them.

Staff will be supported during the change including accessing appropriate training where necessary.

For significant organisational change there will be a defined process for filling posts identified in a new/revised structure:

There are 3 different types of ways that current posts can relate to posts in the new structure:

- Group 1: The post is unaffected or out of scope of the change – for instance where the post is part of the wider structure but there are no changes to it as part of this organisational change process (except for very small changes such as potentially a change in who the postholder reports to)
- Group 2: The post is broadly similar to post/s in the new structure. The postholders can be allocated to either the post or to a pool for that post (depending on whether there are enough posts for people or not)
- Group 3: The post is not broadly similar to any posts in the new structure. The postholders will be considered for suitable alternative employment,

The stages of the process are:

Pre-stage – HR and manager decision about which Group (as above) each post fits into

Stage 1a – **Non-competitive allocation to a post** (where the post is recognisably the same post or broadly similar **and** there are sufficient posts for eligible people);

Stage 1b – **Allocation to a pool for ring-fenced posts** (where a role is the same or broadly similar **but** there are insufficient posts for eligible staff);

Stage 1c – **Selection process for those allocated to a pool**;

Stage 2 – **Suitable alternative employment** (where staff who have not secured a post in Stage 1 will be placed 'at risk' on the redeployment register and supported to find alternative posts within the council);

Stage 3 – **Redundancy** (only considered as a last resort where suitable alternative employment has not been found);

Any entirely new posts not suitable for allocation will be ring-fenced as suitable alternative employment;

Pay protection may be applicable in cases where redeployment or reduction in hours is possible.

There is a right to a trial period of four weeks after the offer of suitable alternative employment through the redeployment process;

Staff will be able to request a review if they feel that the process has been incorrectly applied or to appeal where notice of redundancy has been given.

Appendices referred to in this document can be found in the Management of Change Toolkit

## **Policy Statement**

Tewkesbury Borough Council values its employees and recognises the importance of clear processes and policy for situations where organisational changes which impact on staff are being considered. We also recognise the importance of open communication and consultation throughout proposed changes, working with our trade union partnerships, and will seek to ensure that any measures taken are fair and equitable.

Organisational change may include:

- Merging of services;
- Remodelling of services;
- Relocation of services;
- Expansion of services;
- Decreasing services;
- Closure of services;
- Competitive tendering of services;
- Outsourcing of services;
- Changes in working practices.

All changes will be conducted in accordance with this policy which incorporates best practice and legal requirements, and aims to provide a framework to assist managers, staff and trade union colleagues.

The relevant legal requirements are as set out in:

- Information and Consultation of Employees Regulations 2004;
- Trade Union and Labour Relations (Consolidation) Act 1992;
- Transfer of Undertakings (Protection of Employment) Regulations 2006
- Employment Rights Act 1996.

## **SCOPE**

This policy applies to all employed staff with a permanent (substantive) contract including chief officers, except that chief officers will be subject to their own statutory processes in the case of change to their contracts and/or dismissal by redundancy.

The policy applies to any employee who are seconded to other organisations but not to individuals seconded into the council, as responsibility remains with their substantive employer.

Employees who may be currently acting up, receiving an honorarium, or who are in a secondment position will be considered for the organisational change process against their substantive post.

Employees absent from work due to a career break, sickness, maternity, adoption or shared parental leave will be included in the process and be kept up to date throughout all stages and will be considered for the organisational change process against their substantive post.

Employees on fixed-term contracts who are delivering a defined time-bound project will not be included in the organisational change process. Employees on fixed-term contracts who are performing the duties typically assigned to a substantive post, will normally be included subject to the commencement of the formal change process being before the expiry of their fixed-term contract. In all cases advice must be sought from Human Resources.

The policy does not apply to members, casual staff or contractors.

## **DUTIES**

**Corporate Leadership Team (CLT)** are responsible for:

Overseeing organisational change at a strategic level and ensuring that systems are in place to manage change fairly and consistently.

Ensuring that systems for liaising for trade unions are in place.

**Managers leading the change** are responsible for:

Obtaining authorisation at the appropriate level for proposed changes by creating a business case which sets out a clear rationale for the change, the proposed changes, process for change, desired outcomes, potential impact for the service and staff and submitting it for authorisation. This may involve undertaking an Equality Impact Assessment as necessary.

Liaising with key partners in the change, in particular, HR, but also Finance and other stakeholders who might be impacted by the proposed change. It will often be appropriate for significant changes to be overseen by Programme Board.

Planning the communication of the change with HR and sharing the consultation document with trade union representatives, with sufficient time for trade union response prior to the consultation launch;

Setting the timeline for the change with due regard to legal and best practice requirements. This is particularly relevant for situations where there may be potential redundancies, TUPE and contractual changes. Advice must be sought from HR;

Launching the consultation;

Receiving feedback to consultation and considering and responding to comments, making changes to the final plan wherever necessary. For contractual changes, feedback and response should be provided in writing to affected staff;

Writing and distributing the final plan, including the final organisational change process which will be followed;

Undertaking a review to establish the efficacy of the change following implementation

**Line managers** (where this is not the same as the operational manager leading the change) are responsible for:

Ensuring all affected staff are communicated with regarding the change, including those on secondment, maternity, adoption or shared parental leave, long-term sickness, employment breaks, etc., within the required timeframes;

Offering the opportunity for individual meetings for affected staff to raise concerns or queries;  
Providing prompt support for access to occupational health and counselling services where members of staff request this support;

Lead the process of appointing to posts, with the support of the nominated HR representative;  
Assess training needs and ensure delivery of appropriate training. For example, where staff need to understand new systems or processes;

Ensure day-to-day delivery of services and business continuity remains safe during the transition period;

Working with the manager leading the change to review efficacy following implementation.

**Employees** are responsible for:

Engaging fully with all processes including redeployment and review where requested;  
Playing an equal and active part in achieving desired outcomes, i.e. successful change to service provision, applying for posts whilst at risk, undertaking trial periods in good faith, etc.

**Human Resources** are responsible for:

Providing expert advice to managers and staff regarding the application of this policy;

Providing toolkits and templates relating to this policy;

Monitoring vacancies through the redeployment register to identify possible posts which may be held for redeployment purposes;

Taking part in the review of the change following its implementation;

Providing expert advice in relation to the application of TUPE and other legal frameworks, including taking legal advice where appropriate.

**Trade Unions** are responsible for:

Collectively and/or individually advising and representing their members, and where possible, working towards achieving a satisfactory outcome for all parties;

Raising issues with the HR department at the earliest opportunity to ensure change processes are timely.



## TYPES OF CHANGE

This policy recognises three categories of change: non-contractual change, minor changes, and significant organisational change which require different degrees of management action and approvals relating to the potential impact of the proposed changes on employees

Type of change	Examples (non-exhaustive list)	Action and approval required
Non-contractual change	Change in line management Minor amendments to a job description Changes to home/office working rosters	No formal action or CLT approval required, but early discussion with HR and engagement and discussion with those impacted will be important
Minor changes	Amendment to formal flexible working arrangements Changes to responsibilities within a job description for a single postholder which are likely to increase grade. Significant changes in portfolio or the ways in which work is allocated which will not impact on grade and where there remain enough posts for people	Follow the minor changes process in this policy and discuss with HR at an early stage then make CLT aware ahead of any changes being made
Significant Organisational change	Changes to structure or job roles which have the potential to require downward changes in grade or may displace people from role or result in redundancy. Any TUPE transfer	A full organisational change process requiring CLT approval and potentially involving member approval, as described in this policy will be required. A number of other teams may be needed to deliver the change. Early engagement with HR is essential.

### Non Contractual Change Process

In preparation for a change which meets the definition in this policy for a non-contractual change a manager may discuss the proposals with HR for advice and guidance as required.

The manager should speak to those members of staff impacted by the change, with particular regard to discussing any personal concerns which may apply to that member of staff and may implement the change as deemed necessary. There is no right to formal consultation, representation or appeal for non-contractual changes.

### Minor Changes Process

In preparation for a change which meets the definition in this policy for a minor change, a manager must discuss the proposals with HR and make CLT aware to ensure the correct process is being used, and that unforeseen impacts are avoided.

Once this has been done, managers must then write to affected staff to make them aware of the proposed change and the proposed timeline for change along with this policy, their right to be consulted on the changes and their rights to representation. An opportunity to meet with the manager and HR to discuss any feedback and personal circumstances will also be offered. A reasonable period for this consultation should be given. The explanation should cover as a minimum:

- The reasons for the change;
- The proposals;
- The potential impact of the proposals;
- Timescales for change;
- A record should be made of any meetings held during this consultation period.

Following the end of the consultation period, the manager should confirm in writing the final plan, taking into account any changes to the original proposals and give a reasonable timeline for implementation of the change along with information about the right of appeal (in line with the appeals process outlined in the Significant Change section of this policy).

Any situation which may lead to staff being declared at risk or a change in grading will not be deemed to be a minor change.

### **Significant Change Process**

#### **Business Case for Proposed Significant Organisational Change**

To gain authorisation a business case should be prepared on the proposed organisational change explaining why the change is required and the impact of the changes (See Template at Appendix 1).

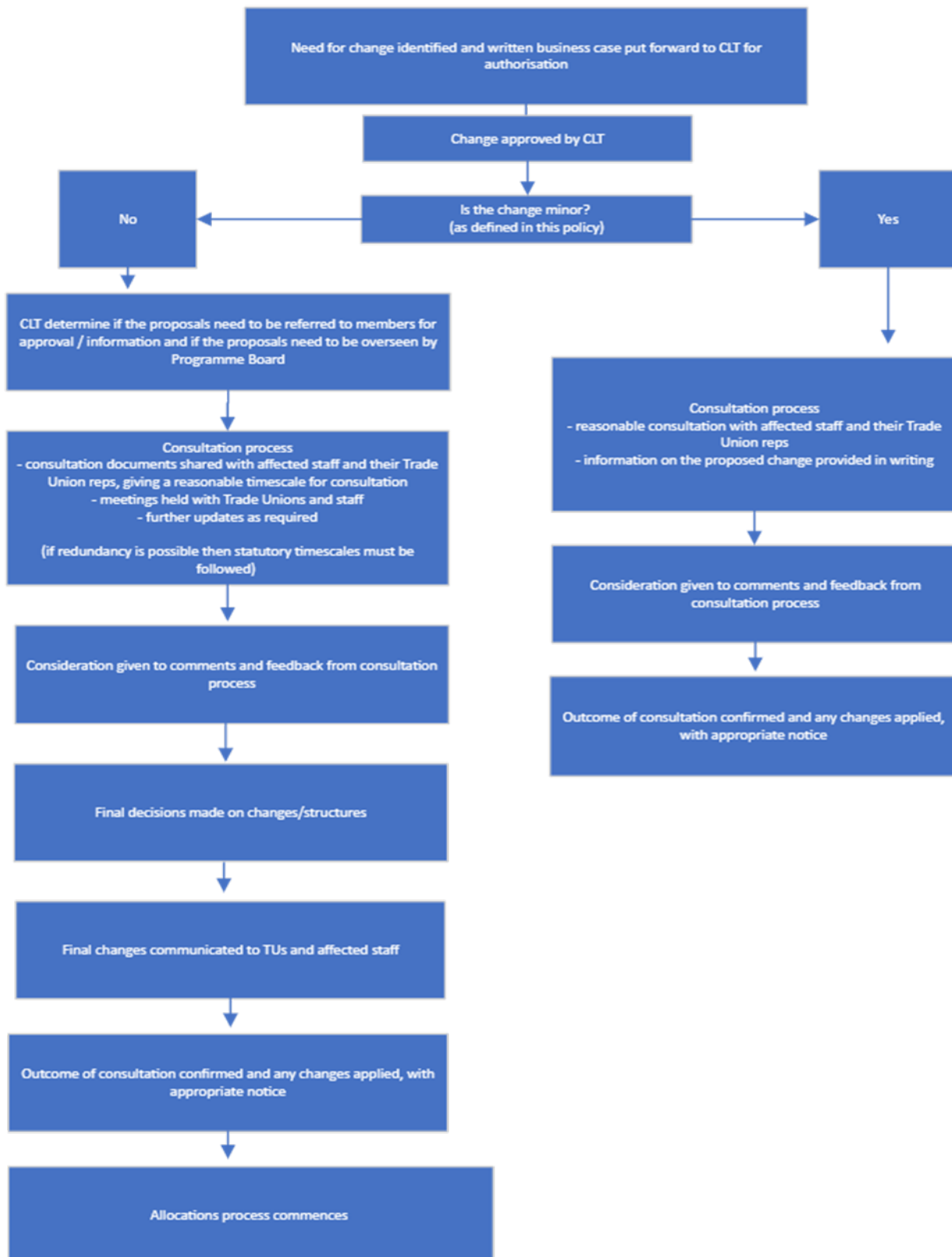
The business case should also present any financial implications of implementing the measures, including provisional pension and redundancy costs where this may be a possibility.

CLT approval will be required and depending on the nature of the proposed change. CLT will also make a decision about whether member approval is required and whether the proposals need to be overseen via Programme Board.

Approved business cases will go forward and the manager will develop a consultation paper which will then be shared with trade unions, prior to the consultation launch.

## Consultation for Significant Organisational Change

### Consultation flowchart



## Consultation Purpose

In accordance with legislation and partnership working principles, meaningful and appropriate consultation with staff side and staff will take place. This will be with a view to reaching agreement on the detail of changes impacting on staff, although there will be times when change will need to proceed following consultation without a consensus being reached on all issues.

The timing and extent of consultation will be proportionate to the level of change. Where redundancy is a possible outcome of the proposed change, due consideration must be given as to whether the legal timeframes for collective redundancy consultation apply as detailed in the Trade Union and Labour Relations (Consolidation) Act 1992 this will be any situation where 20 or more redundancies are possible within a 90 day period).

The purpose of consultation meetings with staff side and staff will be:

- To avoid or reduce any anticipated redundancies
- To mitigate the consequences of any anticipated redundancies
- To receive and, where possible, address any questions on any consultation documentation setting out the proposed changes;
- To consider any comments or views on any consultation documentation;
- To clarify any change processes and timeframes specific to the proposed changes.

Documentation:

A consultation document will be prepared on the proposed organisational change explaining why the change is required and the impact of the changes. A template for this document is available at Appendix 3.

Consultation with Trade Unions:

Consultation with Trade Unions will take place as early as possible. Discussions and updates will be ongoing. It is recognised that good communication is key to any change programme, and changes which are proposed will be explained in writing to those affected.

Meetings:

The period of formal consultation will be deemed to have commenced at the date that the consultation document is issued to affected staff members.

Where the impact of change to teams or individuals is significant, e.g. changes to team structures, changes in role, etc., each member of staff will be offered the opportunity of at least one individual meeting with an appropriate manager at which they have the right to be accompanied by a Trade Union representative or work colleague. HR advisory support will also be offered. At the meeting the member of staff will be invited to comment and respond to the proposals. It is recognised that staff may require time to respond and may not be able to do so at that particular meeting. Feedback can be taken given over the entirety of the consultation period and may be done verbally in meetings, or in writing. Notes of the individual meeting will be kept and can be provided to the member of staff and their trade union representative on request. The record will be a note of the main points discussed at the meeting.

Regular updates and frequently asked questions may be circulated to staff throughout the formal consultation period as necessary. Throughout this period staff will be encouraged to discuss their concerns and queries with their line manager and trade union.

Staff who are anticipated to be absent from work for a prolonged period of time, e.g. sickness, maternity, adoption or shared parental leave during the period of change will be involved in the consultation process in line with this policy and any legislation requirements.

#### End of Consultation:

At the end of the consultation period full consideration will be given to all comments received from Trade Union representatives and staff. The outcome will be communicated which may include the below as appropriate:

- The agreed new structure;
- The reasons for decisions taken;
- Identification of posts which are the same or substantially the same in the old and new structures;
- Arrangements for filling posts through matching or ring-fencing;
- Selection arrangements for posts within the new structure;
- Arrangements for seeking suitable alternative employment;
- Reference to pay protection arrangements and how these will apply;
- Support mechanisms available for staff affected by the change including counselling and reasonable time off to seek other employment or undertake training;
- Proposed timescales for each stage of the change process;
- Measures deemed possible that will be taken to avoid redundancies (if this is applicable).

Where significantly different proposals result from the feedback during consultation, it may be appropriate to commence a fresh consultation on the revised plans. HR advice should be taken on this issue.

Where possible, the council will seek to reach agreement on proposals before they are implemented, however, it is not necessary for the parties involved to reach agreement for the consultation to be complete. As long as there has been genuine consultation with a view to reaching agreement, then the council can end the consultation, providing that any statutory timeframes applicable have been adhered to.

The council considers redundancies to be a last resort and will make all reasonable efforts to secure suitable alternative employment with affected staff and their representatives.

## Allocation and Selection Process

The next stage of the process will then be to move staff from the old to the new structure.

Job descriptions and person specifications will be produced for any new posts. The new posts will be evaluated in accordance with normal council processes.

Selection criteria for all posts in the new structure must be non-discriminatory, fair, objective, clearly defined and based on the skills and competency requirements of the post.

There are 3 different types of ways that current posts can relate to posts in the new structure:

- Group 1: The post is unaffected or out of scope of the change – for instance where the post is part of the wider structure but there are no changes to it as part of this organisational change process (except for very small changes such as potentially a change in who the postholder reports to)
- Group 2: The post is broadly similar to post/s in the new structure. The postholders can be allocated to either the post or to a pool for that post (depending on whether there are enough posts for people or not)
- Group 3: The post is not broadly similar to any posts in the new structure. The postholders will be considered for suitable alternative employment,

The stages of the process are:

Pre-stage – HR and manager decision about which Group (as above) each post fits into

Stage 1a – **Non-competitive allocation to a post** (where the post is recognisably the same post or broadly similar **and** there are sufficient posts for eligible people);

Stage 1b – **Allocation to a pool for ring-fenced posts** (where a role is the same or broadly similar **but** there are insufficient posts for eligible staff);

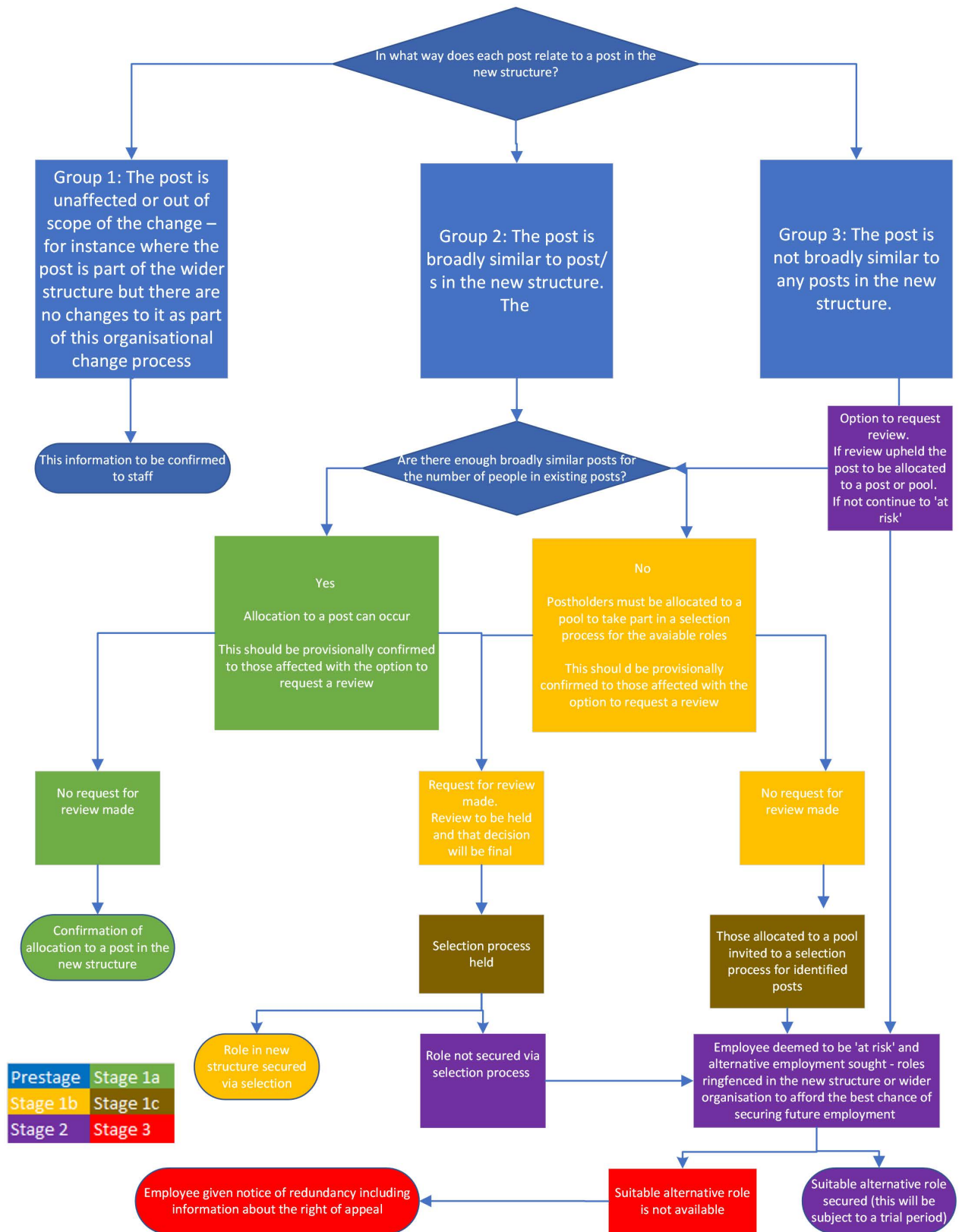
Stage 1c – **Selection process for those allocated to a pool;**

Stage 2 – **Suitable alternative employment** (where staff who have not secured a post in Stage 1 will be placed 'at risk' on the redeployment register and supported to find alternative posts within the council);

Stage 3 – **Redundancy** (only considered as a last resort where suitable alternative employment has not been found);

Staff who are on maternity leave, adoption leave or shared parental leave and are protected under legislation and will be entitled to be offered a suitable alternative role (if one is available). This means that any available job must be offered to an employee on maternity leave in preference to another employee who is not on maternity leave but whose job is also redundant. To determine if a role is suitable it may be necessary to attend an interview to discuss suitability.

### Allocation and selection process flowchart



## **Stage 1a and 1b**

In order to streamline the process and reduce waiting/uncertainty for staff members, Stage 1a and 1b will be programmed to take place at the same time.

Decisions made during Stages 1a and 1b will be by the relevant manager with HR. The manager and HR will meet to make decisions about non-competitive allocation to a post or allocation to a pool; staff members do not attend this meeting.

The manager and HR need to work through the list of staff members who may be eligible to be allocated to a post, or (where there are more eligible people than posts) eligible to be allocated to a pool, considering each staff member in turn in accordance with Stage 1a or 1b of the allocation and selection process. The manager and HR will compare a staff member's current role against roles in the new structure (by using job descriptions) and will make a decision about whether or not a staff member can be provisionally allocated into a post or provisionally allocated to a pool.

The manager and HR will need to ensure that the rationale behind decision making is recorded in respect of each staff member and that notes of the meeting are produced, which will be used in the event of any appeals.

### **Stage 1a – Non-competitive allocation to a post**

Non-competitive allocation to a post means the process by which employees are placed into another post in a new structure which is broadly similar to their current post. It may occur where there are more or the same amount of posts as staff eligible, and a post is broadly similar with regard to job content, responsibility, status, and requirements for skills, knowledge and experience. The minimum qualifications and experience required for the new post should already be in place with the present post holder.

A matching review is carried out to assess eligibility for an identified role in the new structure and by comparing it to current job roles. Where it is deemed broadly similar the employee is allocated to that post, which will be treated as an offer of suitable alternative employment.

Where there are essential qualifications or experience which are essential for the new role which it does not appear that the member of staff has, then this should be confirmed with the member of staff and can only be allocated to a post if it is deemed that they do have the essential criteria OR could be supported to achieve it within a reasonable timeframe.

### **Stage 1b – Allocation to a Pool**

If a role in the new structure is broadly similar but there are more staff who are currently in broadly similar roles than posts available, then allocation will apply.

Allocation is where eligible staff are all placed in a pool. Those in the pool will go through a competitive selection process (usually competitive interview, but may also be other methods such as presentation of a portfolio of previous work) for ring-fenced roles identified as being broadly similar in the new structure.

Where there are essential qualifications or experience which are essential for the new role which it does not appear that the member of staff has, then this should be confirmed with the member of staff and they should only be included in the pool if it is deemed that they do have the essential criteria OR could be supported to achieve it within a reasonable timeframe.



It is possible to be allocated to more than one pool if a staff member's current role is broadly similar to more than one role in the new structure.

## **Provisional Outcomes**

HR or the line manager will inform individuals of the provisional decisions in writing, which will be copied into the staff members' current line managers, if applicable, so that they can be available for staff members to discuss outcomes.

For those allocated to a pool, the provisional decision letter will include details of the selection process for that pool.

Provisional decision letters will include details of how a staff member can submit a request for review within 5 calendar days of receipt of their letter.

If after the elapse of the 5 calendar day request for review period, no request has been received, the provisional decision will become a confirmed decision. For those who are non-competitively allocated to a post, a final confirmation letter will be sent by the line manager. Those allocated to a pool will progress to the selection process at Stage 1c.

## **Request for Review**

Staff with a provisional Stage 1a or 1b decision, or those who have concerns about a minor change decision, can choose to submit a Request for Review using the form at Appendix 4. A Request for Review is not the same as an appeal but the formal appeal process detailed in this policy will only be appropriate where a decision has been made which leads to redeployment to a suitable alternative role or redundancy which an employee believes to have been incorrectly applied, or if they believe that employment which the council has deemed to be a suitable alternative is not a suitable alternative.

The review panel will consist of a minimum of two people, and may include senior management and a Human Resources representative depending on the circumstances. Those on the review panel will not have been involved in making the disputed decisions.

The review panel will be provided with papers which will include all of the information available to the panel at the point of decision-making, plus the notes recording the rationale behind them as well as the staff member's Request for Review letter.

The review panel will review all of this information and will decide whether or not the process was correctly applied and the outcome correct. The review panel will write to the employee confirming their final decision and reasoning behind this. There is no further right of review or appeal available to staff members during the allocation and selection or minor change processes.

## **Confirmation regarding Stage 1a and 1b**

Human Resources or the new line manager will confirm decisions in writing to individual staff members, which will be copied into the staff members' current line manager, if applicable, so that they can be available for staff members to discuss outcomes.

For those non-competitively allocated to a post this final letter will include details of any changes to terms and conditions of employment.

For those confirmed as allocated to a pool, the letter will include details of the selection process (time, venue, etc.) and Stage 3 will commence.

### **Stage 1c – Selection Process for those allocated to a pool**

In order to fairly identify people for ring-fenced posts in the new structure from those allocated to a pool at Stage 1b a selection process will be undertaken. This will usually be by competitive, scored interview, with the post/s being filled based on the highest interview scores but where appropriate other methods may also be used as long as the method of scoring is transparent and used consistently across all candidates.

A staff member who is successful in securing a post but is also part of a pool for a different role may choose whether to continue to compete for the other role, or accept the role they have been offered. If they choose to compete for the other role the second highest scorer for the offered post will be advised as to the pause in process whilst the other selection process takes place. All other staff will be informed that they have been unsuccessful for that process and will progress to Stage 2.

### **Stage 2 – Suitable Alternative Employment**

Those who have not been offered a post at Stage 1 (including those for whom no post in the new structure are considered to be 'broadly similar', who will be placed directly onto this Stage) will be placed 'at risk' and will be entered onto the redeployment register, given prior consideration for redeployment and will be supported to find suitable alternative employment.

Posts reserved as suitable alternative employment will include unfilled posts in the new structure, posts held vacant or filled temporarily in anticipation of potential redundancies and other suitable vacancies that become available.

Staff who are identified 'at risk' will be given a preferential interview for any potential suitable alternative post where they might meet the essential criteria (or could be deemed to do so within a reasonable timeframe). This may be a competitive interview if more than one potentially suitable staff member is on the 'at risk' register.

Posts will not be advertised to non-'at risk' staff until preferential interviews have taken place. If the appointing manager assesses that an 'at risk' member of staff does not meet the essential criteria this must be discussed and agreed with the HR department before the outcome is confirmed to the staff member.

Should an advertised post be identified as a potentially suitable alternative, any interviews for that post will be placed 'on pause' pending the outcome of the preferential interview.

When considering how appropriate a role is to be considered suitable alternative employment, the following will be taken into account:

- how similar the work is to the current job
- the terms of the job being offered
- the employee's skills, abilities and circumstances in relation to the job
- the pay (including benefits), status, hours and location

Pay protection may be offered where the pay in the new role would otherwise be lower. The protection period allows staff time to evaluate their personal financial circumstances and make necessary adjustments. Where pay is protected this will be on the employee's original salary scale

and they will continue to receive annual pay increases and incremental progression, if appropriate, for 12 months from the date of redeployment.

An employee will be paid at the top of the grade of the lower grade post when redeployed.

At the end of this period the protection will cease and the employee will then be paid a salary in accordance with the grading of the post to which they have then been redeployed.

Staff members will be entitled to a trial period of 4 weeks in any role identified as 'suitable alternative employment'.

## **Trial Periods and Training**

A trial period will only apply to staff 'at risk' and where a formal offer of suitable alternative employment has been made through the redeployment process. The purpose is for both the manager and the individual to assess the suitability of the post.

Where staff have the potential ability but not the immediate experience to undertake the full duties of the role, they will be provided with appropriate skills development/training. This will be provided when it is reasonable, practical and cost effective and where the member of staff demonstrates a willingness to learn and can apply the new skills within an agreed timeframe.

The trial period will normally last 4 weeks but may be extended by mutual agreement where a member of staff requires additional training and development.

A review will be undertaken 1 week prior to the end of the review period in order to allow both parties to discuss any issues at which the staff member's trade union representative may be present along with a member of the HR & OD Team. Should either party believe that the new role does not represent suitable alternative employment then clear written evidence of why the role is unsuitable should be submitted for consideration by the other party.

If the trial period is agreed to be unsuccessful, or if the council deems that the post is unsuitable and no reasonable action can be taken to address this and there is no other suitable alternative post available, redundancy arrangements will apply. If the staff member maintains that the post is not a suitable alternative whilst the council believes that the post is suitable, then the appeal process of this policy should be followed. Until the end of their notice period staff at risk will be considered for other suitable alternative employment if available which will be subject to the same arrangements including a trial period.

If a staff member unreasonably declines an offer of suitable alternative employment they would not be entitled to a redundancy payment.

## **Stage 3 – Redundancy**

Redundancy is a legal term for a specific type of dismissal, but as it relates to the council the circumstances which would lead to redundancy are likely to be:

- the council ceases to provide the service in which the member of staff is employed
- the requirements for the specific type of work undertaken by the employee has ceased or diminished or is expected to do so
- Redundancy is regarded as the last resort and all reasonable steps to avoid compulsory redundancy will be taken.

- Redundancy will apply to those staff who have not been successful in securing a position within the new structure and where it has not been possible to source redeployment to suitable alternative employment. Measures to avoid redundancy include:
- Robust and consistent review of all vacancies;
- Retraining of staff for another role;
- Redeployment;
- Reviewing the use of agency and contractor staff;
- Reduction in overtime within affected department.

The manager will formally write to the individual and invite them to a meeting at which they will be given notice of redundancy. The meeting should take place once all foreseeable suitable alternative employment opportunities have been exhausted. The individual will be entitled to be accompanied by an accredited trade union representative or a work place colleague. A HR practitioner will also attend the meeting to support the process.

A letter confirming matters discussed at this meeting must be provided to the individual with an estimate of redundancy payments and serving notice of redundancy, which will be statutory or contractual notice, whichever is the longer.

Throughout the notice period continued support will be given to staff to help them secure alternative employment. Under normal circumstances the staff member will be required to work their period of notice. Only under exceptional circumstances will the staff member be paid salary in lieu of notice. The council reserves the right to pay in lieu for any redundancy notice which is not served before the implementation of the organisational change.

From time to time voluntary redundancies may be considered by the authority. However, the possible current and future contribution of volunteers and the needs of the council will also be taken into account. The council therefore reserves the right not to accept a volunteer's request for redundancy, if to do so would mean the loss of valued and necessary skills and experience.

### **Notice of Redundancy:**

The amount of notice period will be in accordance with the member of staff's contractual notice period, or the applicable statutory notice period, whichever is the greater.

Notice may be longer to take into account an agreed implementation date of the change.

Should a suitable alternative role become available during the employee's notice period, then the notice of redundancy may be withdrawn by the council to allow this to be explored.

### **Redundancy Payments:**

Only staff members with 2 or more years of continuous service with Tewkesbury Borough Council, or an organisation identified within The Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999 will be entitled to statutory or contractual redundancy payments.

The council offers an enhanced contractual redundancy payment in that the 'weeks' pay' on which the calculation is based, is not capped as the statutory weeks' pay is, but is instead an uncapped week's pay based on your average weekly pay over a 12 week period.

The following service will not be counted for the purposes of redundancy:

- Employment that would have been continuous but has been taken into account for the purposes of a previous redundancy or loss of office payment;

- Where the staff member has previously been given pension benefits, any employment that has been taken into account for the purposes of those pension benefits.

Staff will not be entitled to redundancy payments on the grounds of redundancy if they:

- Are dismissed for reasons of conduct, with or without notice;
- Unreasonably refused to accept suitable alternative employment with the council
- Leave their employment before expiry of notice, except if they are being released early;
- Are offered a renewal of contract (with the substitution of a new employer for the council);
- Where their employment is TUPE transferred

A redundancy calculator is available at Appendix 2 of the Management of Change Toolkit. Managers must liaise with the HR & OD Team in order to obtain details of redundancy entitlements and other aspects of the redundancy process.

### **New Job Opportunities in the Structure**

Any posts not identified as suitable alternative employment will be open to internal advertisement to allow equal access. Where there are successful applicants for posts, the post they release will be put into the process as opportunities for suitable alternative employment. This will continue until all potential opportunities have been exhausted.

Any posts remaining will be advertised externally only once it has been established that they are not a suitable alternative for staff at risk.

### **Change of Location**

There may be the requirement for the main place of work to be changed. Moves within Gloucestershire are likely to be considered to be reasonable but decisions will be made in discussion with staff and personal circumstances will be taken into account. In the case of a choice of which members of staff will be moved, this will be decided on the basis of volunteers where possible. If this is not possible then decisions will be made on the basis of minimising additional mileage and disruption for all, taking into account personal circumstances, e.g. childcare and health. The HR & OD Team will provide support through this process.

### **RIGHT OF APPEAL**

Staff have the right of appeal if they believe that processes leading to redeployment to a suitable alternative role or redundancy have been incorrectly applied or if they believe that employment which the council has deemed to be a suitable alternative is not a suitable alternative. An appeal form can be found at Appendix 5 of the Management of Change Toolkit

If an appeal is received the Management of Change process will be paused at that point of the process, maintaining the status quo and no further progress will be made until the appeal process has been heard.

Should an individual choose to do so, they must write to the HR & OD Manager within 5 calendar days of the notification of their change, trial review meeting, (or within 7 calendar days of receiving the letter confirming the redundancy decision). The grounds for appeal should be clearly stated along with any supporting documentation.

The employee who is appealing and the responding manager (the manager responsible for the decision which is being appealed against) will be written to, to confirm the date and venue for the appeals hearing within 5 calendar days of receipt of the appeal and will give at least 7 calendar days' notice of the hearing to enable all documents to be submitted within the agreed timescales.

The responding manager (the manager who made the decision which is being appealed against) will be advised that an appeal has been received and will prepare a written response, along with any supporting documentation, which will be sent to all those attending the appeal hearing, along with confirmation of the date and venue for the hearing at least 2 calendar days in advance.

Both the employee who is appealing and the responding manager will be required to produce a response to the appeal in writing with any supporting evidence and submitted to the HR & OD Team prior to the appeal hearing.

If the management response includes confidential information regarding other staff this will be anonymised to enable this to be shared with the appeals panel prior to the hearing, however the full response may not be shared with the appellant if inappropriate and to respect the confidentiality of other staff. If this is the case, the rationale for this will be provided.

The panel will consist of two panel members, one of whom will be a Human Resources representative. Wherever possible, the appeal chair will be of a more senior level than the responding manager and those on the appeal panel will not have been involved in the disputed decision being considered. Where the appeal relates to a chief officer, the panel will be the Employee Appointments and Disciplinary Committee.

The responding manager will be supported by a Human Resources representative at the appeal hearing. Staff have a right to be accompanied by a trade union representative/ work colleague who is an employee of the council.

The running order of the appeal will be in accordance with the outline at Appendix 3, and may be digitally recorded or minuted.

The outcome of the appeal shall be provided in writing and the decision of the appeal is final.

## **TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 (TUPE)**

TUPE regulations protect employees' rights when they transfer to a new employer. The regulations are complex and HR advice, and possibly also legal advice will always need to be sought.

A TUPE transfer happens when:

- an organisation, or part of it, is transferred from one employer to another
- a service is transferred to a new provider eg:
  - a service provided by the council is taken over by a contractor (known as 'outsourcing')
  - a contract ends and the work is transferred into the council (known as 'insourcing')
  - a contract ends and is taken over by a new contractor (known as 'retendering')

To transfer under TUPE, you must be part of an 'organised grouping of employees'. This is the group of employees carrying out work for the 'client' (the organisation receiving the services). Where a member of staff's employment status is in question, or it is unclear whether they are in scope of TUPE, HR advice should be sought to establish whether TUPE applies or not.

In the council TUPE processes will be guided by [Staff Transfers in the Public Sector: Statement of Practice](#) (which provides specific information about how pensions must be protected) and [ACAS's guidance on TUPE transfers](#).

### **Where the council is receiving new staff as part of a TUPE transfer**

The council will:

- Review employee liability information
- Advise the transferring organisation of any proposed changes to working practices ('measures') as soon as possible
- Aim to ensure a smooth transfer of staff by holding joint meetings with the transferring organisation and affected staff to discuss any concerns and/or personal circumstances.
- Take over employment contracts as though we were the old employer, with due consideration for the protections offered by the TUPE legislation.

### **Where the council is transferring staff out of the council as part of a TUPE transfer**

The council will:

- Inform and consult with representatives of recognised trade unions regarding a proposed transfer as early as possible including information on:
  - that the transfer is happening, when it will happen and why
  - how the transfer will affect staff – for example, if there's a change in location, working hours, job descriptions, salary payment dates or any risk of redundancies
  - how they plan to carry out the transfer
  - whether there'll be any reorganisation
  - the number of agency workers employed, the departments they are working in and the type of work they are doing, if agency workers are used
- It should be noted that not all of this information may be available to begin with and information may need to be shared as it becomes available.
- Inform staff of the facts about the transfer
- Consult with staff, inviting and considering any feedback on measures that we have been informed about.
- Ensure that there are opportunities to meet with managers to discuss personal circumstances and concerns during the consultation period

Aim to reach agreement on suggestions where possible, and where agreement is not possible, explain why not in writing.  
Advise staff of support routes available  
Provide employee liability information to the new employer in good time (at least 28 days prior to transfer)

Employees can object to a TUPE transfer, but this will effectively be a resignation and they will not be entitled to claim redundancy pay or claim unfair dismissal. Employees can apply for any available role with the council which is out of scope of the TUPE process and if successful, will not transfer to the new employer.

## **SUPPORT FOR STAFF**

The council recognises that organisational change can be a challenging and stressful time. All staff affected by the change will be encouraged to seek the advice and support of their trade union. Support will be provided and may include:

- Time to meet with their trade union representatives to discuss the change;
- Access to the council's counselling and mental health support services and mental health first aiders;
- Practical assistance with the preparation of application forms or CVs;
- Preparation and coaching for interviews;
- Reasonable time off to seek other employment or undertake training.
- Referrals can also be made to occupational health where this is identified as being a helpful action.
- Management will remain available to staff to manage any issues which may arise and support staff through the transition.

## **CONFIDENTIALITY**

Principles of confidentiality will be maintained through the organisational change process and personal information relating to individuals will only be shared with those who need to know it in order to manage the change.