



## General Purposes Committee

**Wednesday 4 September 2013 at 7.00 pm**

Board Room 1&2 - Brent Civic Centre, Engineers Way,  
Wembley HA9 0FJ

### Membership:

#### Members

Councillors:

Butt (Chair)  
R Moher (Vice-Chair)  
Brown  
Hirani  
Hopkins  
Kansagra  
Lorber  
Mashari  
J Moher  
Pavey

#### first alternates

Councillors:

A Choudry  
Jones  
Beck  
Van Kalwala  
Sneddon  
Colwill  
Hunter  
Al-Ebadi  
Chohan  
Arnold

#### second alternates

Councillors:

Krupa Sheth  
Kabir  
Matthews  
Aden  
Green  
BM Patel  
Leaman  
Naheerathan  
S Choudhary  
Mrs Bacchus

**For further information contact:** Joe Kwateng, Democratic Services Officer  
020 8937 1354, [joe.kwateng@brent.gov.uk](mailto:joe.kwateng@brent.gov.uk)

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**The press and public are welcome to attend this meeting**

# Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

Item	Page
<b>1 Declarations of personal and prejudicial interests</b>	
Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.	
<b>2 Minutes of the previous meeting</b>	1 - 6
<b>3 Matters arising</b>	
<b>4 Deputations (if any)</b>	
<b>5 JNC Conditions of Service</b>	7 - 10

The Council has recently undertaken a review of the JNC Conditions of Service for Chief Officers. This report proposes that the Council determines those senior management posts which fall within the JNC definition for a chief officer and employs these staff on JNC terms and conditions. All other senior managers on Hay grades would be employed on NJC for Local Government Services terms and conditions. The report also asks members to consider some changes to the JNC for Chief Officer terms and conditions which will bring them more into line with all other staff terms and conditions.

**Wards Affected:**

All Wards

**Contact Officer:** Cara Davani,  
Director, HR

Tel: 020 8937 1909

[cara.davani@brent.gov.uk](mailto:cara.davani@brent.gov.uk)

<b>6 Managing change policy and procedure</b>	11 - 40
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This report provides details of the proposed new Managing Change Policy and Procedure which will replace the current Managing Change Policy and Procedure.

The draft managing change policy and procedure is attached an appendix to this report.

**Wards Affected:**

All Wards

**Contact Officer:** Cara Davani,  
Director, HR

Tel: 020 8937 1909

cara.davani@brent.gov.uk

**7 Attendance policy and procedures**

41 - 60

This report provides details of the proposed new Attendance Policy and Procedure which will replace the current Attendance Management Policy and Procedure.

The draft attendance policy and procedures is attached as an appendix to the report.

**Wards Affected:**

All Wards

**Contact Officer:** Cara Davani,  
Director, HR

Tel: 020 8937 1909

cara.davani@brent.gov.uk

**8 Appointments to Sub-Committees / Outside Bodies**

**9 Any other urgent business**

Notice of items to be raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.



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- The meeting room is accessible by lift and seats will be provided for members of the public.

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## LONDON BOROUGH OF BRENT

### MINUTES OF THE GENERAL PURPOSES COMMITTEE Thursday 4 July 2013 at 7.00 pm

PRESENT: Councillor Butt (Chair), Councillor R Moher (Vice-Chair) and Councillors Hirani, Hopkins, Lorber, J Moher and Pavey

Apologies for absence were received from: Councillors Brown and Mashari

#### 1. **Declarations of personal and prejudicial interests**

None declared.

#### 2. **Minutes of the previous meetings**

RESOLVED:-

- i. that the minutes of the meeting held on 28 March 2013 be approved as an accurate record of the meeting
- ii. that the minutes of the meeting held on 20 May 2013 be approved as an accurate record of the meeting.

#### 3. **Matters arising**

Councillor Lorber drew members' attention to the discussion set out in the minutes of the meeting held on 28 March 2013 regarding the pay multiple; the ratio between the highest paid salary and the lowest/median average salary of the council's workforce. Councillor Lorber queried whether there were any implications for senior officer pay of the 1:9 ratio between the highest and lowest salary as shown in the Pay Policy Statement agreed by Council on 25 February 2013. Cara Davani (Interim Operational Director HR) advised that an explanatory note had been circulated on this issue following the Council meeting on 25 February. With regard to the Chief Executive position, it had been clarified at the Council meeting that the intention was to use a starting salary of less than the maximum salary agreed, to bring it into line with the 1:9 ratio. This information had been based on a vacant position. Now that there was a proposal to fill the position via a fixed term contract, it would be possible to provide further clarification on this matter.

#### 4. **Deputations (if any)**

There were no deputations.

#### 5. **Hay management contract**

Cara Davani (Interim Operational Director HR) introduced a report to the committee proposing a revised Hay contract for senior managers. It was considered timely to review and update the contract in light of the senior management restructure currently taking place and in order to bring the contract into line with the Brent Core Contract which had been in 2012. There were no substantive changes proposed to the terms and conditions and the contract would retain those which were recognised as specific to Hay graded posts; these included a 40 hour working week, 32 days annual leave and payment of increments on the anniversary date. It was proposed to remove the current car loan scheme as, in practice, this was no longer in use. Existing car loans would be allowed to expire.

In response to a number of queries raised by the committee, Cara Davani confirmed that it was proposed that the existing arrangements for salary increments remain the same. It was noted that salary increments were paid subject to satisfactory service. The policies which underpinned the contract, including the council's appraisal scheme, provided clear guidance on what constituted 'satisfactory service' and the relevant policies were provided to employees within the employment pack. It was the council's policy that Hay grade appointments would start at the bottom of the salary scale. Any action to the contrary would be required to be signed off by the appropriate director and by the Operational Director of HR. Employees were also required to complete a declaration of interests form when their employment commenced which encompassed questions relating to any private or business interests and additional employment with, or membership of, other organisations. Any interests declared would be considered by an employee's line manager and a decision would be taken as to whether they constituted a conflict of interest. Similarly, if an employee wished to engage in additional employment, a request would have to be made to the employee's line manager.

Noting the current arrangements for the award of annual salary increments, Councillor Lorber queried why increments were not paid following 12 month's service, irrespective of start date. Cara Davani explained that the present arrangements ensured a minimum of six month's service prior to an increment being paid; this was historic practice in Brent and common practice elsewhere. Following further discussion it was agreed that a report setting out the pros and cons of awarding increments on the anniversary of employees' start dates be submitted to the committee.

RESOLVED:

- i. That the proposed changes to the Hay Contract be agreed;
- ii. That the updated Hay Contract be issued to all existing senior managers on Hay contracts and subsequent new appointments.

## 6. **Disclosure and Barring Service (DBS) Policy**

In December 2012 the Criminal Records Bureau and the Independent Safeguarding Authority were merged to form a new public body, the Disclosure and Barring Service. Cara Davani (Interim Operational Director HR) explained that the report before the committee introduced a new DBS policy which was to replace the now defunct CRB policy. The DBS policy detailed the process for conducting DBS checks during recruitment and established that these would be kept up to date via three-yearly repeat checks. The policy also set out useful guidance on the use,

storage and disposal of disclosure information. The implementation of the policy would ensure that a consistent approach was applied across the council for all staff, including those who were not paid directly by the council; contractors were now required to evidence that DBS checks had been carried out where required.

It was queried whether the proposed policy was in line with standard practice across the London Boroughs. Members also sought clarification on the statutory requirements for repeat checks and the arrangements for checks for overseas candidates. Cara Davani advised that when drafting the policy work had been undertaken to find out what approach other local authorities had adopted. Many had not advanced to the stage that Brent had in developing a policy to address the legislative changes. Internally, all heads of service had been consulted when the criteria determining whether DBS checks should be carried out were drawn up. The proposal to carry out repeat DBS checks after three years was not underpinned by a statutory requirement but it was considered prudent to do so, given the level of associated risk for the council. Turning to the issue of checks for overseas candidates, Cara Davani advised that it was the responsibility of the candidate to produce an equivalent check from their country of origin. This information would be obtained direct from the relevant authorities where possible, otherwise the candidate would be expected to make a data subject request to the police force of their country of origin.

RESOLVED:

- i. That the draft Disclosure and Barring Service (DBS) policy be approved with immediate effect;
- ii. That the Assistant Director, Human Resources (or Deputy), in consultation with the Director of Legal and Procurement (or Deputy) and subsequent consultation with the relevant trade unions, be authorised to make such other changes as may be necessary from time to time to this policy.

## **7. Recruitment and retention**

A report outlining the potential difficulty in sourcing a suitable candidate for the Strategic Director, Education, Health and Social Care position on the current salary level was presented to the committee by Cara Davani (Interim Operational Director, HR). It was highlighted that this position had been established as part of the new senior management structure. The portfolio of responsibility attached to the post was considered significant and the advice of external recruitment consultants, Gatenby Sanderson, was that it would be preferable to appoint a candidate with substantial experience, including those with existing experience of working at Strategic Director level. The current salary scale for the post was £124,296 to £140,508 per annum and advice received was that experienced candidates would be seeking a salary of around £155,000. Approval was therefore being sought provide the Chief Executive the discretion to pay an additional market supplement, no greater than £15,000 to the successful candidate for the position, if this was considered necessary to attract the best possible candidate.

In the subsequent discussion, members acknowledged the magnitude of risk associated with the post of Strategic Director, Education, Health and Social Care, and the importance of securing a high calibre candidate with suitable experience.

Members also raised several queries regarding the proposal to allow a market supplement to be paid if considered necessary. The committee noted that work had been undertaken which revealed that a number of other London boroughs were presently paying in excess of £140,000 for similar posts and it was queried whether many were paying below this figure. It was further queried whether response to the advertised post had been poor.

Responding to the queries raised, Cara Davani advised that she could not recall that any London local authority paid significantly below the salary scales set out for position. The post was currently being advertised and issues had been raised about the salary, with expectations of a salary of £150,000 to £155,000 having been expressed. It was emphasised that the possible additional payment of up to £15,000 would be a market supplement only and not an increase to the salary scale.

RESOLVED:

- i. That the payment of a market supplement, no greater than £15,000, to the successful candidate for the Strategic Director, Education, Health & Social Care post, if an enhancement is required to attract the best possible candidate for this high profile role, be authorised.

Councillor Lorber and Councillor Hopkins wished their dissent from the above decision to be recorded.

#### **8. Stopping Up Order - Elmwood House, Harlesden Road**

Eric Marchais (Highway and Transport Delivery) introduced the report to the committee. The report requested authorisation to make a Stopping-Up Order for an area of public highway in the access road, formerly known as Harlesden Lane, between numbers 1 to 47 Longstone Avenue and Knowles House, Number 51 Longstone Avenue, Under 247 of the Town and Country Planning Act 1990 (TCPA 1990). The Order was required to complete the development of the Elmwood House site and provide off-street parking, communal garden, play space and associated landscaping related to the erection of a new building comprising 38 flats. The planning consent for this development, which was granted by the Planning Committee on 20 July 2010, did not include a Stopping-Up Order; however, this would be necessary. A draft Stopping-Up Order was therefore made and advertised under Section 247 TCPA 1990 in March 2013 and one qualified objection was received from Thames Water; this had since been withdrawn. Concerns had also been expressed by another body, but these had also been resolved.

RESOLVED:

- i. That it be noted that a draft Stopping Up Order had been advertised in accordance with the requirements of Section 247 TCPA 1990 and that one qualified objection was received from Thames Water.
- ii. That the responses to the objection as set out in the report be noted.
- iii. That the Stopping Up Order for the area of public highway in the access road, formerly known as Harlesden Lane, between numbers 1 to 47 Longstone Avenue and Knowles House, Number 51 Longstone Avenue, be approved.



- iv. That it be noted that the Stopping Up Order would be duly advertised following committee approval.

## 9. **Stopping Up Order - Bronte House and Fielding House, South Kilburn**

The committee considered a report requesting authorisation to make a Stopping-Up Order for areas of public highway in Cambridge Road and Kilburn Park Road, including the Podium Car Park and area of mostly elevated footpath leading to the car park room, under Section 247 of the Town and Country Planning Act 1900 (TCPA 1900). The Order was required to enable the development of 229 flats at site 11b of the South Kilburn Regeneration area to be carried out. The planning consent granted for the development specified that the stopping-up of Cambridge road and the formation of a new access road through the rearrangement of the existing Cambridge Road / Kilburn Park Road Junction would be required. It had also been agreed that a section of footway of Kilburn Park Road would need to be stopped up for the development to proceed. The Brent legal department had also advised that the mostly elevated footpath to and including the podium car park room should be considered public highway and also be stopped up.

The draft Stopping-Up Order was made and advertised under Section 247 TCPA 1900 in December 2012. Four objections were received from the following utility companies with apparatus in the vicinity; OpenreachBT, Thames Water, Cable and Wireless UK and T-Mobile UK Ltd. Following discussion with council officers all four objections had been formally withdrawn, as set out in Appendix 2 to the report.

RESOLVED:

- i. that it be noted that a draft Stopping Up Order had been advertised in accordance with the requirements of Section 247 TCPA 1990 and that 4 objections were received, one from OpenreachBT, one from Thames Water, one from Cable and Wireless UK, directly from the company and also via their agent Atkins Telecoms, and one from T-Mobile UK Ltd.
- ii. That the responses to these objections as set out in the report be noted;
- iii. That the progression of the Stopping Up Order for areas of public highway in Cambridge Road and Kilburn Park Road, including the Podium Car Park and area of mostly elevated footpath leading to the car park room, under Section 247 of the TCPA 1900, be approved.
- iv. That it be noted that the Stopping Up Order would be duly advertised following committee approval.

## 10. **Appointments to Sub-Committees / Outside Bodies**

RESOLVED:

That the following appointments to sub-committees and outside bodies be approved:

- i. Councillor Crane to be appointed as member of Senior Staff Appointments sub-committee in place of Councillor Denselow for the meeting to be held on 15 July 2013 only, after which Councillor Denselow to be re-appointed in place of Councillor Crane.


- ii. Councillor S Choudhary to be appointed to the Chalkhill Community Centre in place of Councillor Aden for the remainder of the 2013/14 municipal year.
- iii. Councillor Aden to be appointed to the Chalkhill Community Trust fund in place of Councillor S Choudhary for the remainder of the 2013/14 municipal year.

11. **Any other urgent business**

None.

The meeting closed at 8.04 pm

M BUTT  
Chair

 <b>Brent</b>	<p style="text-align: center;"><b>General Purposes Committee</b> 4 September 2013</p> <p style="text-align: center;"><b>Report from the Operational Director of Human Resources</b></p>
Wards affected: ALL	
<b>JNC Conditions of Service</b>	

## 1.0 Summary

1.1 The Council has recently undertaken a review of the JNC Conditions of Service for Chief Officers. This report proposes that the Council determines those senior management posts which fall within the JNC definition for a chief officer and employs these staff on JNC terms and conditions. All other senior managers on Hay grades would be employed on NJC for Local Government Services terms and conditions. This will mean that the majority of staff on Hay grades will have terms and conditions which are in the main consistent with those for other staff whilst retaining a small number of local variations which are beneficial to the Council.

1.2 The Committee is also being asked to consider some changes to the JNC for Chief Officer terms and conditions which will bring them more into line with all other staff terms and conditions.

## 2.0 Recommendations

GP Committee is asked to agree to:

- strategic directors, operational directors with responsibility for a statutory function and the Assistant Chief Executive and Operational Director HR being classified as chief officers in accordance with the JNC definition for chief officers and be afforded JNC terms and conditions as modified by other proposals in this report. The local variations to the existing contract for Hay graded posts would also be retained. This is in accordance with the Council's Constitution and should remain as such;
- all other posts on Hay grades reverting to NJC for Local Government Services terms and conditions whilst retaining the local variations to the existing Hay contract;
- those posts identified as statutory Chief Officer posts are as set out in Brent's Constitution and will be updated in line with the Constitution;
- bring disciplinary arrangements for senior managers in line with all other staff;
- align the consultation arrangements in the JNC conditions where it is proposed to delete a chief officer post with the Council's managing change arrangements for all

other staff;

- adopt the Council's appraisal arrangements (which is current practice);
- implement a pay award which is consistent with that being rolled out for all other staff where the JNC for Chief Officers does not negotiate a pay award.

### **3.0 Detail**

3.1 GP Committee recently agreed to implement a new Hay Contract of employment which was more in line with the Council's core contract for all other staff.

3.2 Currently all Hay graded staff have contracts based broadly on terms and conditions outlined by the Joint Negotiating Committee (JNC) for Chief Officers of Local Authorities with some local variations.

The JNC for Chief Officers constitution defines a Chief officer as follows:

"The Committee shall have within its scope any officer of a local authority in England and Wales who:

1. is a chief officer designated by the employing authority as the administrative and executive head

either 1 of a separate department  
or 2 of a particular function or service

which in either case is regarded by the authority as important in relation to the total activities of the authority; or

2. is designated by the authority as a recognised deputy to any chief officer covered by (1) above including an officer of deputy status but whose post may carry a different title".

3.3 In keeping with this definition it is proposed that the strategic directors, operational director posts that have responsibility for a statutory function and the Assistant Chief Executive and the Operational Director HR be classified as chief officers for purposes of their terms and conditions. This definition is widely used in other local authorities and this proposal brings Brent into line with other Local Authorities in this respect. This is in accordance with the Council's Constitution and any changes to the Constitution in respect of those defined as Chief Officer in the future should be kept in line. The terms and conditions for Chief Officers in many respects accord with those for all staff on NJC terms and conditions. However, the practice in Brent has been to have some local variations which have been adopted through custom and practice. These are discussed below. In the main it is recommended that the variations be retained with minor modifications to the agreement.

3.4 In respect of the remaining posts on Hay grades it is recommended that the terms and conditions are those for all other staff: NJC for Local Government Services terms and conditions; with the retention of the current local variations referred to above.

3.5 These proposals for the employment of senior managers on Hay grades will mean there is further alignment between the terms and conditions for these posts and those of all other staff. Overall this means that the proposal will not have a negative impact for staff affected. The minor modifications to the JNC Chief Officer terms and conditions are discussed below.

- 3.6 The existing disciplinary arrangements in place for all Hay staff are not entirely consistent with the arrangements in place for all other staff within the Council. The key differences being:
- Hay staff can be represented by a lawyer (this is not a feature of current JNC for Chief Officers conditions so is therefore historic). All other staff are not entitled to legal representation.
  - Right of appeal to an 'Ad Hoc Sub Committee of the General Purposes Committee' following any disciplinary sanction. All other staff can request a Member appeal following dismissal.
- 3.4 It is proposed to bring Hay disciplinary arrangements for senior managers on Hay grades into line with arrangements for all other staff. There is no logical rationale for retaining separate (and potentially more favourable) arrangements for senior staff and the strong preference is to ensure all staff regardless of grade are treated equitably.
- 3.5 Subject to the Committee approving the proposals in 3.3 and 3.4 above changes are proposed to the disciplinary arrangements. In both cases it is proposed that the local disciplinary policy and procedure will apply. The local policy and JNC provisions are in the main comparable. The key change is in regard to right to appeal to an 'Ad Hoc Sub Committee of the General Purposes Committee' which it is proposed is replaced. In future appeals against disciplinary action (including dismissal) with the exception of strategic directors would be heard by a Director, Operational Director or Head of Service. The Staff Appeals Sub Committee would only be convened by exception at the discretion of the Operational Director Human Resources for staff at Operational Director level and below. The staff Appeals Sub-Committee would consider dismissal appeals of strategic directors. This means in future senior managers would be able to request a Member Appeal panel is convened following dismissal in the same way as all other staff can make such a request. It is further proposed to remove the local variation for representation by a lawyer.
- 3.6 The appraisal arrangement should be in accordance with the Council's Appraisal Policy which is broadly comparable with the JNC Chief Officer appraisal arrangements. This reflects current practice.
- 3.7 The Council has applied JNC Chief Officer terms broadly i.e. for all Hay staff including negotiated pay awards. In future subject to the proposal to move staff on Hay grades, who are not classified as Chief Officers, to NJC terms and conditions, the pay award agreed for this staff group will apply. Where the JNC for Chief Officers does not negotiate a pay award it is proposed that for those staff that fall within the remit of this negotiating body the pay award will be in accordance with the agreed pay rise for all other staff. This is in accordance with arrangements for other staff groups not on NJC terms e.g. BACES staff. It also aligns with Brent's approach to provide equitable and fair terms and conditions for all staff.
- 3.8 Where it is proposed to abolish a chief officer post the JNC conditions state that statutory consultation arrangements should be followed. However, the conditions include a period of not less than 28 days for the statutory consultation. Under the Council's local managing change policy applicable to all other staff formal consultation is for a minimum of 15 calendar days and up to 30 calendar days (45 days where 100 or more redundancies are proposed). Normally where less than 20 posts are impacted consultation has been over a 15 day period. Consultation can always be extended where circumstances warrant an extension. There is no rational reason why arrangements for consultation should not be the same. It is therefore proposed to align consultation arrangements for those under the umbrella of JNC conditions with Brent's local arrangements.

3.9 It is not proposed to make changes to the higher working week; annual leave and the notice period for staff on Hay grades which are considered to be in the Council's best interests to retain.

#### **4.0 Financial Implications**

4.1 There are no specific financial implications as the 1% costs of a pay award have been factored into this year's budget for all categories of staff.

#### **5.0 Legal Implications**

5.1 Historically, any officer who was employed on a Hay Grade was automatically considered to be a chief officer and entitled to the JNC conditions of service. There does not appear to have been any rationale for this and the differential that was created was both not in the Council's interests and a potential equal pay issue. The proposed rationalisation creates increased parity and reduces any risks of challenges that may be made in terms of inequality. The current contractual entitlements as set out by the JNC terms for Chief Officers are capable of being varied in the ways proposed given their nature and extent and if agreement is given by the Committee then the changes can be legally made to put those changes into effect. It is anticipated that there is unlikely to be major objection to the changes and it is likely that the changes will be implemented by agreement.

#### **6.0 Diversity Implications**

6.1 The proposed approach creates greater equity in respect of terms and conditions of employment.

#### **7.0 Staffing/Accommodation Implications**

7.1 Staffing implications are covered in the body of the report. The trade unions have expressed their agreement to all of the changes outlined in this report. All Hay staff have been consulted on the proposals and there have not been any objections raised at this time.

#### **Background Papers**

JNC for Chief Officers Agreement

Current Hay contract

Brent Core Contract for staff on NJC terms and conditions

#### **Contact Officer**

Cara Davani, Operational Director, HR

 <p><b>Brent</b></p>	<p><b>General Purposes Committee</b> 4 September 2013</p> <p><b>Report from the Operational Director, Human Resources</b></p>
<p style="text-align: right;">Wards affected: ALL</p>	
<p><b>Managing Change Policy and Procedure</b></p>	

## 1.0 Summary

- 1.1 This report provides details of the proposed new Managing Change Policy and Procedure which will replace the current Managing Change Policy and Procedure.

## 2.0 Recommendations

- 2.1 The General Purposes Committee is asked to:
- a. agree the draft Managing Change Policy and Procedure with effect from 5 September 2013.
  - b. authorise the Operational Director, Human Resources (or Deputy), in consultation with the Director of Governance and Corporate Services (or Deputy) and then consultation with the relevant trade unions, to make such other changes as may be necessary from time to time to the Managing Change Policy and Procedure to ensure it remains relevant and 'fit for purpose'.

## 3.0 Detail

- 3.1 The Council regularly reviews its HR policy framework to align its policies and procedures to the organisational objectives, incorporate legislative changes and to reflect current modern HR practice.

Brent's Managing Change Policy and Procedure has been reviewed in light of recent legislative change and improvements identified in the application of the current policy and procedure. Brent is committed to following a fair and reasonable process during times of organisational change and will consult appropriately with its staff and recognised trade unions. Equally important to

the Council is preventing or minimising redundancy, and actively seeking redeployment opportunities, where possible.

3.2 Reviews of organisational structures within the Council are necessary to ensure they remain up to date and appropriate and deliver excellent services. The Managing Change Policy and Procedure provides a framework that will be followed during times of structural change.

3.3 The key points to note in the new policy and procedure are:

- the Policy and Procedure has been simplified to provide greater flexibility when managing organisational change both for employees and the Council.
- clarifies the process for contractual changes.
- amends the consultation period to reflect recent legislative changes. The consultation period has been reduced from 90 days to 45 days where a hundred or more redundancies are proposed.
- job matching in future will be undertaken on the basis of old and new job descriptions and not person specifications.
- the grade range has also changed for job matching and redeployment searches. The grade range in future will be one up and one down rather than two up one down.
- makes the Council's Redundancy Policy contractual.
- where suitable alternative employment is found for staff displaced as part of the restructure process the statutory 4 week trial period will apply.

3.4 The policy and procedure is designed to ensure that all employees are treated fairly and consistently and that high standards of performance are maintained. It is recognised that change is a stressful time both for staff and managers. The process has been designed to achieve the required change avoiding unnecessary delays so that staff impacted by the change know how they are personally affected as soon as is reasonably possible. The Council also has various arrangements in place to support staff going through change including the Employee Assistance Programme which has a confidential counselling service.

3.5 The policy and procedure is underpinned by a strong focus on delivery of the highest level of service.

#### **4.0 Implementation date**

4.1 It is recommended that the policy becomes live on 5 September 2013. A communications plan has been developed to support roll out of the policy and



guidance for managers to support implementation of new arrangements. Human Resources advisers will be fully briefed on the operation of the new policy and procedure to support managers going forward.

## **5.0 Financial Implications**

5.1 There are no specific financial implications.

## **6.0 Legal Implications**

6.1 The policy is underpinned by the Employment Rights Act 1996, Employment Act 2002, Trade Union and Labour Relations (Consolidation) Act 1992 Amendment (Order 2013), Redundancy Payments Acts and the Equality Act 2010.

6.2 The policy adheres to ACAS basic principles of fairness and guidance on Handling Collective Redundancies.

6.3 The policy is non-contractual (with the exception of the Council's Redundancy Policy) and may, subject to applicable legislation, be amended or withdrawn by Brent at any time.

## **7.0 Diversity Implications**

7.1 The policy and procedure is applicable to all staff and provides a consistent approach to implementing organisational change including structural change, changes to job roles and contractual changes to implement changes to ways of working. There is provision in the policy to support staff going through change as well as arrangements to look for redeployment for displaced staff before redundancy termination notices are issued. The managing change policy and procedure is in accordance with the Council's equality duties and will be continually monitored to ensure compliance.

7.2 An Equality Analysis has been undertaken.

## **8.0 Staffing/Accommodation Implications**

8.1 Brent is moving towards a flexible workforce and this policy and procedure will assist in the organisation meeting its objectives through offering a framework to help employees meet or exceed the high standards of performance required. There are no other implications in addition to those otherwise set out in the report. The trade unions have been consulted on this policy.

## **Background Papers**

Draft Managing Change Policy and Procedure is appended to this report.

## **Contact Officer**

Cara Davani

Operational Director, Human Resources

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# Draft Managing Change Policy and Procedures

## Introduction

At times it is necessary and appropriate to review organisational structures within the Council to ensure they remain up to date and appropriate, provide value for money and deliver excellent quality services. This policy outlines the process which will be followed during times of structural change.

## Our approach

Brent is committed to ensuring that its organisational structure delivers cost-effective and high performing services. The Council's structure may change and new ways may be introduced. Employees may need to perform new tasks, work different hours in different locations and embrace other changes to their roles. The Council is committed to following a fair and reasonable process during times of organisational change and will consult appropriately with its employees and recognised trade unions.

## Policy statement

This policy outlines the process the Council will be following when it has changing job requirements which result in structural reconfigurations.

Managers must work closely with Human Resources on all change programmes that impact on staff and staffing structures.

This Managing Change Policy and Procedure is non contractual with the exception of the Council's Redundancy arrangements which are contractual.

## Policy summary

The Council aims to prevent or minimise redundancy wherever possible but recognises that on occasions redundancies may occur as a result of reducing the number of posts available and where job functions change. Brent will endeavour to redeploy staff into new roles where possible.

This policy applies to all change proposals involving reorganisation except where:

- new posts are created;
- there are changes to line management only;
- minor changes are proposed to roles or to employees' job descriptions.

## Staff consultation and engagement

Managers will carry out consultation when managing organisation change with staff and recognised trade unions and will adhere to the Council's statutory responsibilities.

Consultation will specifically be in respect of:

- structural reorganisations that impact on employees
- changes to contracts of employment, other than where all individuals that are affected by the changes are in agreement;
- discretionary aspects of national agreements;
- potential redundancy;
- major changes in situations, working practices and location of employees etc; and
- changes to local procedural agreements.

Staff will be met with as a group and will be given the opportunity for a one to one meeting with the appropriate manager during the consultation process.

## **Equality Impact assessments**

It is Brent's policy to carry out proportional Equality Analysis on all structural changes as part of the collective consultation process. Equality Analysis pre-empts the possibility that a proposed change could affect some groups unfavourably. Unfavourable treatment could mean that the Council is failing to meet its statutory duties under the Equality Act 2010 to eliminate unlawful discrimination and promote equality of opportunity.

## **Keeping records**

Any formal consultation arrangement will be outlined in a consultation document. Feedback issues raised during consultation and the final structure will also be confirmed in writing.

## **Definitions and general information**

This policy applies to all permanent and temporary Brent employees who have 12 months' continuous employment with the Council by the date of the implementation of the organisational change or change to terms and conditions of employment.

The policy does not apply to employees based in schools maintained by the Council where the school's delegated budget has not been suspended and where the school's Governing Body has not elected to adopt this procedure.

References to NJC Terms and Conditions do not apply to centrally-employed teachers who are employed under separate terms and conditions.

The contracting out of part of Brent's operations is not within the scope of this policy.

## **Appeal against dismissal**

An employee has the right of appeal against dismissal taken under this procedure where:

- Failure to follow this policy had a material effect on the decision;
- The decision maker came to a conclusion on a material point of fact which no reasonable person could have come to;
- The decision to delete the post/select the employee for redundancy was one which would not have been reached by any reasonable person;
- There is information that the employee wishes to introduce for the first time at the appeal which the employee could not reasonably have provided to the decision maker by the time the decision was made and the absence of which had a material effect on the decision.

Appeals are not allowed on any other grounds. The decision of the appeal is final. Any appeal should be submitted within 10 working days of the date of the letter confirming the dismissal decision and must be made in writing. Appeals can be considered through written correspondence rather than at a hearing in certain circumstances.

## **Re-engagement of staff**

To disallow re-employment completely on grounds that a redundancy payment has been previously paid would be unlawful. However, if re-employment occurs and certain criteria are satisfied, the redundancy payment may be reclaimed.

An employee made redundant may not be re-engaged within three months of their termination of employment except under the redeployment procedure and where no redundancy pay is payable. After three months the employee may be re-engaged via the normal procedure but only to carry out a different job from that which they were made redundant.

An employee may only be re-engaged to carry out the same work as previously engaged upon after one year from termination for redundancy and only after the matter has been reported to the Operational Director, Human Resources.

The re-engagement arrangements are necessary to ensure that the Council has a fair and consistent approach to re-engaging employees whose services are terminated with the Council on grounds of redundancy. The criteria set out below provide clear boundaries for re-engagement. It is not appropriate under any circumstances to re-engage an employee made redundant to undertake some or all of the duties of the redundant post occupied by the employee.

Circumstance	Applicable/Non-applicable
<p>An employee made redundant may not be re-employed on any basis as a consultant/agency worker/temporary worker or directly on a temporary or permanent basis</p>	<p><b><u>Applicable</u></b></p> <ul style="list-style-type: none"> <li>• Up to three months from the last day of service; and</li> <li>• Where there was an entitlement to a redundancy payment</li> </ul> <p><b><u>Not applicable</u></b></p> <ul style="list-style-type: none"> <li>• Where there was no entitlement to a redundancy payment there is no waiting period</li> </ul>
<p>Any employee made redundant may be re-engaged on any basis i.e. as a consultant/agency worker, or directly on a temporary or permanent basis provided:-</p> <p>It is to a different unique job from the one from which they were made redundant;</p> <p>If it is to the same work it is where there is a group of generic posts and where one of these has become vacant after the redundancy situation through normal labour turnover and provided the appointment is made on merit through the appropriate procedure and/or in line with Standing Orders</p>	<p><b><u>Applicable</u></b></p> <ul style="list-style-type: none"> <li>• Three months after the last day of service</li> <li>• Where there was an entitlement to a redundancy payment</li> </ul> <p><b><u>Not applicable</u></b></p> <ul style="list-style-type: none"> <li>• Where there was no entitlement to a redundancy payment there is no waiting period</li> </ul>
<p>Re-engagement or appointment on any basis to carry out the work or part of the work of a unique post that had been abolished and from which the member of staff had been made redundant</p>	<p><b><u>Applicable</u></b></p> <ul style="list-style-type: none"> <li>• No re-engagement on any basis (i.e. as a consultant/agency worker, or directly on a temporary or permanent basis) for up to one year from the last day of service</li> <li>• After one year re-engagement in any form only after a business case has been made and approval obtained from the Operational Director, Human Resources and Chief Finance Officer</li> </ul> <p><b><u>Not applicable</u></b></p> <ul style="list-style-type: none"> <li>• Where there was no entitlement to a redundancy payment there is no waiting period</li> </ul>

## Monitoring the Managing Change Policy

The Council will regularly monitor the Managing Change Policy to ensure consistent application of it and to ensure that the standards expected of managers in its application are being achieved.

## Maternity Adoption and Additional Paternity Leave

Special Considerations apply to workers on maternity, adoption and additional paternity leave (Regulation 10 of the Maternity and Parental Leave etc. Regulations 1999) in redundancy situations.

The law requires Brent to protect an employee who is absent on maternity, adoption or additional paternity leave, who may otherwise be dismissed by reason of redundancy, to ensure that they are not disadvantaged.

Any staff affected by restructure proposals and who are on maternity leave may be entitled to be offered a position, if one exists, in the new structure. If there is a post available that is clearly suitable alternative employment, then there will normally be no need for a selection process to take place.

## Scale and nature of the change/reorganisation

In approaching a service or business reorganisation, managers must:

- **Define the purpose or business objective(s) of the change**, for example the need to reduce service costs by a specific date or the introduction of new service delivery methods;
- **Develop a clear proposal for change** including revised organisation and workforce structures, new ways of working, skills and workforce development requirements;
- **Review and compare the current versus the proposed organisation structure and workforce requirements** and identify any requirements for change with regard to staffing establishment, working arrangements, skills or knowledge;
- **Take account of the existing establishment** and the extent to which this would need to be changed to achieve the new business or service objectives;
- **Review current job descriptions and person specifications**, updating where necessary;
- **Write new job descriptions and prepare new structure**;
- **Forward new job descriptions and person specifications** for evaluation ([jobevaluation@brent.gov.uk](mailto:jobevaluation@brent.gov.uk))

Type of Change Required	Impact on existing workforce	Outcomes
Function or service no longer required	Existing jobs are no longer required	Redeployment Redundancy
Function or service remains, but will be delivered differently e.g. new systems or terms and conditions	Some job functions remain without any reduction or change in purpose	Assimilation (job matching)
or	Same or similar number of staff required but the job functions, roles and/or working arrangements change and are substantially similar.	Assimilation/ Competitive Assimilation
function or service to be delivered in partnership	Same or similar number of staff required but the job functions roles and/or working arrangements change and are substantially different – ring fence.	Ring fence or Redeployment or Redundancy
Function/Service to be contracted out	Business transfer of existing job functions to new external employer.	TUPE Regulations apply (link)

Reasons why a job may have ceased or changed substantially could include:

- The duties of the new post are so different that the nature of the job has fundamentally changed;
- A key component of the job is significantly different;
- Workloads have decreased;
- The new job requires qualifications that the old job did not;
- Terms and conditions have changed resulting in a significantly different working pattern.

Where an existing job remains, with limited changes then managers will be required to inform the affected employees and consult with them and receive any views they wish to put forward.

A change in location refers to a major relocation of the business that would require the employee to move their home or result in an unreasonable journey to and from work.

### **Change of contract**

A Brent contract of employment can be changed as a flexibility clause is contained within the contract. Reasonable notice of the change will be given to the employee following consultation on the reasons for the change and consideration of the employee's views.

### **Change by mutual consent – dismissal/re-engagement where no agreement is reached**

Employees must agree in writing to any contractual changes. Any such agreement must be made voluntarily and the written agreement should say it has been made voluntarily.

Where the employee does not agree to the changes, the contract of employment should be terminated with notice and an offer of re-engagement made on the new terms and conditions. Brent needs to satisfy itself in these instances that:

- There is a sound business case
- The correct procedure was followed, including consulting with the employee
- Where reasonable objections to change were put forward, the employer attempted to reach some form of compromise
- The changes are free from discrimination
- A new contract is offered at the end of the notice period on the revised terms
- Attempts are made to look for alternative employment, if applicable

There will be circumstances when the Council is seeking to make changes which impact on all or a significant number of staff. In this event a collective agreement with recognised trade unions will be sought in the first instance.

### **Progressing Change Proposals**

Once managers have established the business case for change and developed proposals the following is necessary:

#### **Establishment Control**

Establishment Control protocols must be followed e.g. authorisation to create or change job roles.

#### **Standing Orders**

Check Standing Orders and delegated powers under the Constitution to see if Committee or Executive approval is required for any proposed changes. Currently, the Executive must make the decision concerning the restructure if it would or would be likely to result in redundancies of more than 20 people.

Brent's Constitution states that Members through the General Purposes Committee must make a decision concerning a restructure if it would or would be likely to result in redundancies of more than 20 people.

### **Avoiding compulsory redundancy**

Brent will actively seek to minimise redundancies. Before consultation, managers should consider the ways of avoiding redundancy. These include but are not limited to:

- Natural wastage, where possible within the Council's financial constraints;
- Deleting vacant posts;
- Recruitment restrictions;
- Retraining staff;
- Reduction or ending overtime working other than contractual or emergency overtime;
- Ending the use of casual/agency workers and non renewal of temporary or fixed term contracts;
- Freezing posts which may offer the prospect of redeployment and give "at risk" staff first consideration for such vacancies;
- Voluntary reduction in hours;
- Applications for voluntary redundancy.

### **Consultation**

Once proposals are developed and approved, managers must ensure that staff and trade unions are properly informed and consulted.

Formal consultation should be for a minimum of 15 calendar days and for up to 30 calendar days (45 days where 100 or more redundancies are proposed). Longer or shorter periods can be agreed with recognised trade union representatives and the Operational Director, Human Resources. When the consultation has finished (which may be before the end of the consultation period), and where no committee decision is required, the proposals as amended by the consultation process will be implemented.

### **Considering whether there is a redundancy**

It will be necessary to assess if the proposals could mean making someone redundant. A redundancy will arise if an employee is dismissed wholly or mainly due to the fact that:

- Brent has ceased or intends to cease the business for the purposes for which the employee was employed or to carry on the business in the place where the employee was so employed; or
- The requirements of the business for employees to carry on work of a particular kind or to carry on work of a particular kind in a place where they were so employed, have ceased or diminished or are expected to cease or diminish.

Where redundancy is a possible outcome, the consultation must include the:

- Reasons for the contemplated dismissals;
- Numbers and types of jobs of those who may be dismissed;
- Total number of people employed in those jobs at the establishment in question;
- Proposed method of selecting those who may be dismissed;
- The proposed method of carrying out the dismissals and the period over which they will take place.

### **Implementing reorganisation and change proposals**

Implementing change is a management responsibility and must be completed with Human Resources assistance to ensure a consistent and objective process. Human Resources advice and support will be required prior to implementing job-matching, ring-fencing or redundancy selection procedures. The job matching process is outlined in Appendix 1.



## **Job evaluation and matching**

Managers will need to review the evaluation results and carry out matching to assimilate and ring-fence jobs based on a comparison of old and new job descriptions (within a grade range of one grade up and one grade below the post being deleted or changed). Human Resources can assist in this process.

### **Job matching and selection criteria**

Job matching and selection will always be based on job content. Comparison between old and new jobs will be based on the job description. The employee's performance in their current post and skills, knowledge and experience can be taken into account during any selection stage.

### **Assimilation (job matching without selection)**

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

- New or existing post is available in the same service unit or Council wide if looking at functional groups (e.g. accountants across Brent) and the post is substantially similar to the post which is being deleted or changed;
- New or existing post's grade is no more than one above or one below that of the post being deleted or changed;
- There is the same number or fewer potential redeployees than available matching posts.

A match will need to be undertaken between the existing job description and the new job description. The manager will carry out the job matching process in conjunction with Human Resources.

Employees must be consulted on provisional job matches. Where there is no match, displaced employees will be placed on the redeployment register following consultation. At any stage during or following consultation they can request the opportunity to complete a skills profile form.

### **Competitive Assimilation (job matching with selection process)**

Competitive assimilation will apply where substantially similar roles are available within the same service unit or Council wide if looking at functional groups but there are more potential redeployees than available matching posts.

A match will need to be undertaken between the employee's current job description and new post(s) job description(s). The job matching process is carried out by the manager with Human Resources support. Employees will need to be interviewed to decide which of them are appointed to the job(s), and other forms of assessment may also be used.

As with assimilation, staff must be considered for roles that are one grade up or one grade down from the grade of their existing post.

### **Ring-fenced interviews**

Ring-fenced interviews will take place where:

- a new post is substantially different to the role the employee is currently undertaking but where there is recognition that some similarities exist;
- The new or existing post's grade will be no more than one above or one below that of the post being deleted or changed;

The employee will be required to attend a ring-fenced interview and other forms of assessment may also be used. In some instances no appointment will be made. The Council reserves the right to advertise a post in the new structure that is substantially different internally or externally in the first instance to ensure the best possible appointment for posts undertaking key activities within the Council. Human Resources advice can be sought in these instances.

In deciding whether at a competitive assimilation or ring-fenced interview to appoint an employee to a post, the manager must decide whether and to what extent the employee can demonstrate they meet the post's job description and person specification. The employee's performance in their current post can be taken into account, where relevant, in reaching a decision. In addition to the criteria set out in the person specification the employee's attendance and conduct record over the previous two years or since they started employment and their timekeeping record over the previous six months or since they started employment should also be taken into account.

If successful, the terms and conditions of the new role will be confirmed in writing by way of the offer of a new contract of employment and upon acceptance the employee will be deemed to have accepted the alternative job.

There is no right of appeal against the outcome of the job matching process. A review would only be carried out if the employee gives clear and specific reasons for why the procedure was breached. The manager who undertook the matching will normally carry out the review in consultation with Human Resources. The employee should be informed in writing of the outcome of the review.

An employee who is at risk who fails to participate in a selection process could be subject to disciplinary action and forfeit their right to a redundancy payment.

### **Skills profile form**

Employees seeking redeployment should complete a skills profile form. The skills profile form will be used to identify potential suitable alternative employment initially within the organisation.

### **Accepting an alternative post**

If an employee is offered a post as a result of the job-matching process there will be no entitlement to redundancy if the offer of new employment is rejected.

### **Redundancy**

The selection criteria for redundancy will be based on the skills, experience, qualifications and performance levels required to undertake the new duties i.e. the selection criteria is based on who the Council needs to keep in order to provide excellent services.

Selection criteria includes but is not limited to:

- Competence (skills and experience);
- Standard of work performance or aptitude for work;
- Attendance and disciplinary record.

There will be circumstances where a redundancy payment will not be applicable, for example, where the dismissal is not a genuine redundancy or where an offer of suitable alternative employment is refused by the employee.

Entitlement to redundancy pay will be limited to the maximum of the statutory ceiling where an offer of alternative employment with a period of development is refused by the employee.

## Voluntary redundancy

Volunteers for redundancy should be invited from the group of employees who are vulnerable to redundancy. However, the decision whether to accept a request by an employee to take voluntary redundancy is at the discretion of the Council, who will retain the employees best suited to the new jobs.

Applications for voluntary redundancy will be considered by a panel consisting of the relevant operational director, Operational Director, Human Resources and the Chief Finance Officer.

## Bumped redundancy

A bumped redundancy is where an employee (who is not in the original redundancy selection pool) volunteers to be made redundant and their job is given to the potentially redundant employee. Bumped redundancies can only take place where a redundancy situation has arisen and the manager is satisfied that a bumped redundancy is in the interests of the Council.

## Redeployment and suitable alternative employment

Where it is not possible to identify new roles for individuals, they will be given notice of dismissal for reasons of redundancy and be placed on Brent's Redeployment Register.

This excludes staff on temporary contracts with less than one year's continuous service, fixed-term employees with less than one year's service, agency workers and other workers not employed by the Council.

If staff are successfully matched to an available vacancy, (a selection process will normally apply), a four week trial period will apply. The agreement must:

- Be in writing and made before the employee starts work under the new contract;
- Specify the date on which the trial period will end;
- Specify the terms and conditions of employment that will apply to the employee after the end of the trial period.

It should be noted that the same redeployment process will apply where redeployment is considered on the following grounds.

<b>Capability</b>	Where ill health or disability affects the continuation of employment in their substantive post  Where there is poor performance in the substantive post but there is potential to carry out other work, for example a demotion to a post at a lower grade
<b>Conduct</b>	Where redeployment has been recommended as the outcome of a disciplinary process
<b>The termination of a fixed term contract`</b>	Where the fixed-term employee's post is to be deleted as a result of a reorganisation
<b>A statutory requirement which could prevent the employment continuing</b>	For example, a driver losing their licence
<b>Some other substantial reason</b>	For example, where an employee has to be withdrawn from their substantive post because of a fundamental breakdown in working relationships that is not due to conduct and/or performance, however the working relationship is untenable in that it is harmful to service delivery and having a negative impact on colleagues

## Redeployment priorities

Redeployment opportunities will be offered in the following category priority order. Category one representing the highest priority

Priority Category	Criteria
Category 1	Employees issued with notice of redundancy while on maternity or adoption leave or upon returning from maternity or adoption leave
Category 2	If there is no-one in redeployment category one or they have been discounted in the process, then any disabled employee who needs to be considered for an alternative role (whether by reason of redundancy or not), which includes placing that disabled employee in a suitable post without the need for any competitive interview as a reasonable adjustment.
Category 3	All other redundant redeployees
Category 4	Employees suffering from ill health (not deemed to fall within the Equality Act criteria), who are capable of fulfilling another role
Category 5	Employees whose incapability evidenced by poor performance requires the Council to consider alternative work
Category 6	Employees under notice of dismissal for some other substantial reason
Category 7	Employees under notice because continued employment in their current role would contravene a statutory enactment

The redeployment period will run concurrently with the employee's contractual notice of dismissal.

The employee should complete a Skills Profile form so that a job search process can begin that considers a redeployee's skills and experience against all available Brent vacancies and gives priority consideration and preferential interviews to posts of one grade up or one grade down from their existing grade throughout the redeployment period. Individuals should normally meet all the essential criteria for a post. However, consideration should be given to the amount of additional training or re-training that would be required to enable the individual to meet the required competence.

Vacant posts in Brent will not be advertised until a job search for suitable alternative posts has been carried out against redeployees in the Redeployment Pool.

If at the end of the notice period suitable alternative employment has not been found, then the employee's contract will be terminated unless:

- there has been a delay in the redeployment process, which meant that the job search was not completed within the notice period;
- a suitable position or positions are known to be imminently arising.

Any extension in notice period must have the express agreement of the Operational Director, Human Resources.

Once the redeployment process has been completed, all remaining vacancies will be subject to normal recruitment and selection procedures.

### Suitable alternative employment

Suitable alternative employment is intended to reflect the match between the employee's current or most recent role(s), their skills, knowledge, qualifications (where relevant), aptitude and capability compared with the requirements of the new post with or without further training.

If a member of staff is currently part time consideration will be given to whether a full time post could be offered on reduced hours or job share arrangement. This will always be subject to service needs.

If the post being applied for requires any form of vetting check undertaken by the Council then it will be a condition that the employee agrees to undertake such vetting e.g. DBS.

If the post is deemed to be suitable alternative employment, the redeployee will be required to complete a Supporting Statement for the vacant post within 48 hours, this together with the Redeployment Skills Profile form will be forwarded to the recruiting manager who will assess the redeployment candidate against the relevant person specification criteria for the post and the redeployee will be called for an interview.

If the redeployee does not wish to apply for a post identified as potentially suitable, Human Resources will notify the Recruiting Manager and proceed to advertise the post in the normal way.

### **Redeployment Interview and selection process**

A selection process will be carried out which may include some form of test to help establish whether or not the position is suitable for the employee.

There is no right of appeal against the outcome of redeployment selection process if the redeployee is unsuccessful.

### **Accepting or rejecting suitable alternative employment**

There will be a four week trial period in all redeployment situations. Offers of redeployment which the Council considers to be reasonable that are rejected will result in loss of entitlement to redundancy pay.

Where the redundant redeployee accepts redeployment to a temporary/fixed term or secondment post, the new post will become their substantive post. The terms of any appointment then apply with the additional provision of time limited pay protection.

Before the end of the temporary/fixed term post or secondment, the redeployment search will recommence again 12 weeks before the date the contract is due to end provided the total period of continuous employment with the Council is one year or more.

In the event that no further suitable redeployment opportunities are available before the end of the temporary/fixed term or secondment post, a redundancy payment for those with at least two years' continuous service will apply.

If the employee has unreasonably refused a suitable alternative offer of employment, or has not engaged fully in the process, redundancy payments will not be payable.

At the end of a limited contract, redundancy payments will be met from the service the employee was originally made redundant from for up to one year. For fixed-term contracts beyond one year after the original redundancy, costs will be met by the fixed-term postholder's service.

### **Protection of pay upon being placed in an alternative job**

Where an alternative post accepted by the employee is one grade below the employee's current grade, pay protection will apply for a period of one year.

During the one year period only, the employee will receive their former salary. However, there will be no entitlement to the annual pay award or any incremental progression.

When the protected period has ended, the salary will be revised immediately and paid in accordance with the salary grade on appointment and for which protection was given. No other allowances or payments, which are not relevant to the new appointment, will continue to be paid beyond the pay protection period.

Protection is generally only based on basic salary changes, however, there may be circumstances where protection is agreed for other reasons e.g. removal of allowances. Advice from the Operational Director, Human Resources should be obtained.

## **Redundancy Payments**

Employees who have at least 2 years continuous local government service (including fixed term and temporary employees with over 2 years continuous service) or related service will be eligible for a redundancy payment based on age and length of qualifying service.

For service to be continuous, any break should not exceed 7 consecutive days, running from Sunday to Saturday (except where there is a redundancy and a new job is taken up as a result of an offer made by the employer before the old job ends, in which case the break can be up to 4 weeks). Previous service will not count, for the purpose of a redundancy payment, if the employee has already received a redundancy payment for that period.

The Council's policy is to exercise its discretion to use actual average weekly pay (rather than the statutory ceiling on the amount of a week's pay) for the calculation of redundancy payments, where there are no offers of alternative employment available.

## **Severance Payment**

The Council also pays an additional amount in excess of the statutory redundancy payment, equivalent to half the statutory redundancy payment. This provision is part of the Council's Redundancy arrangements and is contractual. This award is made to all employees who are entitled to receive a redundancy payment. Severance will only be payable where the redundant employee meets the following three criteria:

**Performance has been satisfactory** – there are no formal capability proceedings being progressed.

**Attendance has been satisfactory** – staff are not subject to formal procedures. The following exclusions will be made from records (where clearly notified with supporting medical evidence):

- Maternity / paternity related absence
- Industrial injuries
- Disability related absence
- Special leave (including jury service)
- One off longer term absences, e.g. broken leg, should be considered favourably, if the underlying attendance record is satisfactory (an average of 9 working days per person in a rolling 12 month period).

**There are no live disciplinary warnings.**

## **Pension Payments**

All scheme members may receive the immediate payment of their pension benefits, only if they are 55 or over. Please note that the scheme member must also have at least three months' membership or have transferred membership from another pension scheme.

Pension benefits are based on membership accrued up to the last day of service and are not subject to a reduction.

If benefits are paid before the employee's 65<sup>th</sup> birthday, there may be an additional strain on the pension fund. The service would be required to make good that loss over a three year period following the termination of employment.

It should be noted that the LGPS Regulations would still require the early payment of the employee's pensions benefits, even where the employee has lost the right to a redundancy or severance payment.

### Statutory redundancy pay table

Age	Service (Years)																			
	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
17	1																			
18	1	1½																		
19	1	1½	2																	
20	1	1½	2	2½	-															
21	1	1½	2	2½	3	-														
22	1	1½	2	2½	3	3½	-													
23	1½	2	2½	3	3½	4	4½	-												
24	2	2½	3	3½	4	4½	5	5½	-											
25	2	3	3½	4	4½	5	5½	6	6½	-										
26	2	3	4	4½	5	5½	6	6½	7	7½	-									
27	2	3	4	5	5½	6	6½	7	7½	8	8½	-								
28	2	3	4	5	6	6½	7	7½	8	8½	9	9½	-							
29	2	3	4	5	6	7	7½	8	8½	9	9½	10	10½	-						
30	2	3	4	5	6	7	8	8½	9	9½	10	10½	11	11½	-					
31	2	3	4	5	6	7	8	9	9½	10	10½	11	11½	12	12½	-				
32	2	3	4	5	6	7	8	9	10	10½	11	11½	12	12½	13	13½	-			
33	2	3	4	5	6	7	8	9	10	11	11½	12	12½	13	13½	14	14½	-		
34	2	3	4	5	6	7	8	9	10	11	12	12½	13	13½	14	14½	15	15½	-	
35	2	3	4	5	6	7	8	9	10	11	12	13	13½	14	14½	15	15½	16	16½	17
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14½	15	15½	16	16½	17	17½
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15½	16	16½	17	17½	18
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16½	17	17½	18	18½
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17½	18	18½	19
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18½	19	19½
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19½	20½
42	2½	3½	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
44	3	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½
45	3	4½	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
46	3	4½	6	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½
47	3	4½	6	7½	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
48	3	4½	6	7½	9	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½
49	3	4½	6	7½	9	10½	12	13	14	15	16	17	18	19	20	21	22	23	24	25
50	3	4½	6	7½	9	10½	12	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½
51	3	4½	6	7½	9	10½	12	13½	15	16	17	18	19	20	21	22	23	24	25	26
52	3	4½	6	7½	9	10½	12	13½	15	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½	26½
53	3	4½	6	7½	9	10½	12	13½	15	16½	18	19	20	21	22	23	24	25	26	27
54	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	20½	21½	22½	23½	24½	25½	26½	27½
55	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22	23	24	25	26	27	28
56	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	23½	24½	25½	26½	27½	28½
57	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25	26	27	28	29
58	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	26½	27½	28½	29½
59	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28	29	30
60	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	29½	30
61+	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	30	30

## Appendix 1

### Brent Assimilation, Competitive Assimilation and Ring-Fencing Procedure

A matching process should be carried out based primarily on agreed and up to date job descriptions. Managers should carry out all job matching by:

- Evaluating the new post and grade before conducting any proposed matches;
- Reading the current and new job descriptions;
- Comparing the job descriptions using the rating scale below on a factor by factor basis
- Completing the matching table and providing evidence to back decisions

#### Rating Scale

**2**

**1**

**0**

---

No change

Minor Change

Significant Change

#### Minor Change

A minor change is defined as minor changes to job descriptions (posts substantially similar).

#### Significant Change

A significant change is a change to job descriptions that make the new posts substantially different.

#### Assimilation/Ring-fencing criteria

Assimilation and ring fencing is limited to a maximum of one grade up or one grade down.

#### Assimilation

Assimilation occurs when:

- The old and new posts are substantially similar (one grade up or one grade below);
- There are the same number or fewer potential employees than available matching posts.

#### Competitive Assimilation

Competitive assimilation occurs when:

- There are more potential redeployees than roles available and the roles are substantially similar;
- A maximum of one grade up or one grade down exists and the role is deemed as a suitable alternative by management.

It should be noted that the organisation will appoint to all vacant posts where a competitive assimilation applies and the Council cannot choose not to appoint.



## **Ring fencing**

Ring fencing occurs when:

- Displaced (unmatched) employees are potentially matched to posts as although there is not a match there are some similarities between posts;
- A maximum of one grade up or one down exists and the role is deemed as an alternative by management.

It should be noted that there is no guarantee that ring-fenced staff will be appointed to a ring fenced-role.

## **Exceptions**

A person will not be assimilated/competitively assimilated or ring fenced where the employee:

- Fails to produce satisfactory DBS;
- Does not have a driving licence for a driving job;
- Does not possess an essential qualification for the job.

## Appendix 2

### Skills Profile

A Skills Profile is an overview of your skills, abilities, knowledge and experience from both your current role and any previous roles to record transferable skills which will aid the matching of displaced staff in the Redeployment Pool.

The Skills Profile is divided into three sections and should be completed in full:

Section One: Personal Details and Work History

Section Two: Redeployment Pool Additional Information

Section Three: Declaration

#### Redeployment Pool

Where specific jobs are identified as potentially suitable, you will be required to complete (in addition to the Skills Profile) a Supporting Statement detailing how you meet the criteria for the Recruiting Manager to determine whether you are short listed. For further information about the redeployment process please refer to the Managing Change Procedure.

#### Support in completing the Skills Profile

If you require further assistance, please contact your HR Adviser or line manager.

#### Declaration

Please remember to complete the Declaration at Section 3 and then forward your form to your line manager by email and additionally provide a signed hard copy of the form.

**Section One**  
**Personal Details and Work History**

Personal Details	
First name	
Surname	

Contact phone number	Enter number	Preferred contact number Please indicate with a cross x
Work		
Mobile		
Home		

Contact email address	Enter address	Preferred contact email address Please indicate with a cross x
Work		
Personal		

Personal skills summary
<p><i>Please provide a brief overall summary of your experience and skills. You may find it useful to be guided by the Person Specification headings below. (you will be asked to provide more against these headings later in the form).</i></p> <p><u>Skills Section 1: Knowledge</u></p> <p><u>Skills Section 2: Skills and Abilities</u></p> <p><u>Skills Section 3: Experience</u></p> <p><u>Skills Section 4: Qualifications and training</u></p> <p><u>Skills Section 5: Transferable Skills</u></p>

**Work History**

List in order, starting with the most recent job, the organisations you have worked for, including full-time and part-time, paid and unpaid work. Continue on a separate sheet if necessary.

**Current post****Post held****Department and Service area:****Department****Grade****Start date****Line manager****Key role / achievements in summary**

## Work History Continued

<b>Previous posts</b>	
<b>Post held</b>	
<b>Employer</b>	
<b>Final salary</b>	
<b>Start date</b>	
<b>End date</b>	
<b>Please ensure that you include skills, knowledge and experience from this role in the boxes below</b>	

<b>Previous posts (cont)</b>	
<b>Post held</b>	
<b>Employer</b>	
<b>Final salary</b>	
<b>Start date</b>	
<b>End date</b>	

**Please ensure that you include skills, knowledge and experience from this role in the boxes below**

**Skills**

*Use this section to record the range of skills you possess.*

**Skills Section 1: Knowledge**

*Includes what you have learnt in your current or previous jobs e.g. knowledge of the organisation, office procedures, legislation, operating systems etc.*

**Skills Section 2: Skills and Abilities**

*Include skills and abilities you have acquired in your current and other jobs or outside e.g. in the education environment, voluntary sector / community or unpaid work or other outside activities that may have required you to possess negotiating skills, supervisory skills etc.*

**Skills Section 3: Experience**

*Please include any experience not listed above including such experience as unpaid work and voluntary work.*

**Skills Section 4: Qualifications and training**

*Includes formal education such as qualifications obtained at school, college or university, professional qualifications and membership of professional institutes/associations, other short training courses and on the job training.*

<b>Educational Qualifications</b>		
<b>Course</b>	<b>Qualification obtained</b>	<b>Date awarded</b>

<b>Professional Memberships</b>		
<b>Type/level of membership</b>	<b>Awarding institution/body</b>	<b>Date awarded</b>





**Section Two**  
**Redeployment Pool Additional Information**

**Employment interests**

*Identify the range of jobs or disciplines and the types of employment you would wish to consider including grades (higher, same or lower grade), full/part time, job share.*

**Hours of work**

*What are the minimum and maximum hours you are able/prepared to work?*

**Mobility**

*Are there any restrictions on your ability to travel in the London Borough of Brent? i.e. being able to travel independently.*

**Restrictions to employment**

*Please provide details of any restrictions that might apply e.g. any medical conditions that might impact on alternative employment opportunities; any work-life balance commitments that are not flexible.*

**Referee – Line manager**

**First name**

**Surname**

**Post title**

**Service**

**Department**

**Contact phone number**

**Contact email**

**Section Three**  
**Declaration**

By submission of my completed Skills Profile I confirm that to the best of my knowledge the information I have provided is true and accurate.

<b>Employee</b>		
Print name:	Signature:	Date:

Please ensure your promptly pass your Skills Profile form by email to your line manager by email and additionally provide a signed hard copy of the form.

**Line Manager Only**

*\*Line manager to complete for staff going in the Redeployment Pool only*

Redeployment Reason please indicate redeployment category with a cross x					
<b>Redundancy</b>		<b>Capability</b>		<b>Conduct</b>	
<b>End of fixed-term contract</b>		<b>Statutory requirement</b>		<b>Some other substantial reason</b>	

<b>Line manager</b>		
Print name:	Signature:	Date:

Please forward the completed form to the HR Recruitment Team at 8<sup>th</sup> Floor, Brent Civic Centre, Engineers Way, Wembley, Middlesex HA9 0FJ

Also forward a signed copy by internal post to the HR Recruitment Team.

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 <p><b>Brent</b></p>	<p><b>General Purposes Committee</b> 4 September 2013</p> <p><b>Report from Operational Director Human Resources</b></p>
<p style="text-align: right;">Wards affected: ALL</p>	
<p><b>Attendance Policy and Procedure</b></p>	

## 1.0 Summary

1.1 This report provides details of the proposed new Attendance Policy and Procedure which will replace the current Attendance Management Policy and Procedure.

## 2.0 Summary

2.1 The General Purposes Committee is asked to:

- a. agree the draft Attendance Policy and Procedure with effect from 5 September 2013.
- b. authorise the Operational Director, Human Resources (or Deputy), in consultation with the Director of Governance and Corporate Services (or Deputy) and then consultation with the relevant trade unions, to make such other changes as may be necessary from time to time to the Attendance Policy and Procedure to ensure it remains relevant and 'fit for purpose'.

## 3.0 Detail

3.1 The Council regularly reviews its HR policy framework to align its policies and procedures to the organisational objectives, incorporate legislative changes and to reflect current modern HR practice.

Brent's Attendance Policy and Procedure has been reviewed in light of improvements identified in the application of the current policy and procedure and the recent implementation of the new attendance Management System for recording absences. Brent's approach is to treat all employees fairly and consistently, creating a working environment where attendance is the norm whilst ensuring the health, safety and well being of its employees.

Employees are positively encouraged and supported to attend work. In this way sickness absence is successfully managed to the benefit of staff and customers.

- 3.2 Attendance and absence procedures help employees to understand what standards are expected of them whilst helping managers when dealing with these issues to do so in a fair and consistent way. The attendance policy is designed to deal with sickness absence on a case by case basis and to manage the absence according to the particular circumstances. The overarching aim is to help employees who are ill to return to work. However, there is also provision in the policy and procedure for taking formal action as required.

The key points to note in the new policy and procedure are:

- the policy and Procedure has been simplified to provide greater flexibility when managing attendance both for employees and the Council.
- the policy and procedure have been reviewed and modified to ensure that all employees are treated fairly and consistently and that high standards of performance are maintained.
- incorporates the Council's Managing Alcohol, Drugs and Substance Misuse Policy.
- the triggers have been modified slightly to allow for a more proactive approach both in supporting staff who may have health issues and managing sickness levels. Current triggers for short term sickness are four occasions in a three month rolling period or three or more occasions totalling nine working days in a twelve month rolling period. In the new policy the proposed triggers are three occasions in a rolling three month period or two or more occasions amounting to nine working days in a rolling twelve month period. For long term sickness the four week trigger has been changed to three weeks. The triggers are a guide and any sickness absence giving cause for concern should be managed within the parameters of the Policy and Procedure.

- 3.3 The policy and procedure is underpinned by a strong focus on delivery of the highest level of service.

#### **4.0 Implementation date**

- 4.1 It is recommended that the policy becomes live on 3rd September 2013. A communications plan has been developed to support roll out of the policy and guidance for managers to support implementation of the new arrangements. Human Resources advisers will be fully briefed on the operation of the new policy and procedure to support managers going forward.

## **5.0 Financial Implications**

5.1 There are no specific financial implications.

## **6.0 Legal Implications**

6.1 The policy is underpinned by the employment legislation including Employment Rights Act 1996, Employee Relations Act 1999, Employment Act 2002, Access to Medical Records Act 1998, Data Protection Act 1998, Equality Act 2010 and health and safety legislation.

6.2 The policy adheres to ACAS basic principles of fairness and guidance on absence and attendance management at work.

6.3 The policy is non-contractual and may, subject to applicable legislation, be amended or withdrawn by Brent at any time.

## **7.0 Diversity Implications**

7.1 The policy and procedure is applicable to all staff and provides a consistent approach to managing attendance at work and to treat employees where health prevents them from attending work in a fair and consistent manner. Action taken to manage attendance will be in accordance with the Council's equality duties. Application of the policy will be continually monitored to ensure it does not impact unfairly on employees and to ensure compliance.

7.2 An Equality Analysis has been undertaken.

## **8.0 Staffing/Accommodation Implications**

8.1 Brent is moving towards a flexible workforce and this policy and procedure will assist in the organisation meeting its objectives through offering a framework to help employees and managers manage attendance and meet or exceed the high standards of performance required. There are no other implications in addition to those otherwise set out in the report. Trade Unions have been consulted on this policy.

## **Background Papers**

Draft Attendance Policy and Procedure is appended to this report.

## **Contact Officer**

Cara Davani  
Operational Director Human Resources

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# **Draft Attendance Policy and Procedure**

## **Introduction**

Treating employees fairly and consistently ensures that sickness absence is managed successfully to the benefit of our staff and our customers. Promoting a culture of attendance will encourage improved performance and the delivery of cost effective services.

## **Our approach**

By encouraging a positive and proactive approach to the health and well being of our employees, we aim to prevent and reduce illness due to work or lifestyle. This policy reflects our commitment to improving effectiveness and attendance at work, and helping people who are ill return to work.

## **Policy statement**

### **Policy summary**

Brent's attendance policy helps managers to deal with sickness absence and successfully reduce sickness levels whilst promoting the health, safety and well being of all employees.

Each case of ill health will be assessed and managed according to its particular circumstances and managers are expected to take formal action in accordance with the policy.

This policy is non contractual. Legal representation is not permitted at any stage of the procedure.

### **Equality duties**

Managers should ensure that their application of this policy does not impact unfairly on employees with reference to age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

The employer has a duty not to discriminate against disabled people and to make 'reasonable adjustments' as appropriate.

## **Definitions and general information**

### **Employees**

This policy and procedure applies to all Brent employees. It does not apply to new employees during their probationary service where separate monitoring processes apply; temporary employees with less than twelve months continuous employment with the Council; and school-based staff who are subject to separate procedures.

### **Attendance management policy**

There are two types of sickness that lead to absence from the workplace:

- Short-term sickness for the purposes of this policy is either three occasions of sickness in a rolling three month period or two or more occasions of sickness

amounting to nine working days or more in a rolling twelve month period which may be unlinked illnesses.

- Long-term sickness is for a continuous period of time, usually at least three weeks.

### **Sickness recording**

Only working days are recorded. For example, if an employee falls sick on a Friday and does not return to work until Tuesday, then this is recorded as two days sickness.

### **Annual leave during sickness**

Annual leave will accrue during sickness absence. Employees may carry forward to the next leave year up to the statutory maximum of 20 days only. Any leave taken during the relevant leave year will be deducted from the statutory 20 days.

### **Sickness while on annual leave**

Employees who fall sick while on annual leave will only be regarded as being sick where a doctor's medical certificate is supplied on their return. Annual leave will be suspended from the date of the certificate and converted to sickness absence.

If an employee falls ill whilst they are out of the country and is prevented from returning to work, then the same reporting and medical certification requirements will apply as if they were in the country. They must also advise their manager of the anticipated duration of any delay, keep in frequent contact and provide their contact details.

### **Sickness during working hours**

If an employee becomes sick and leaves work before completing half of their contracted hours for that day, they will be recorded as being sick for half a day. If they work more than half of the day, then they will be treated as if at work for the full day and sick leave will not be deemed to start.

### **Ill health which does not lead to absence from work**

There may be occasions where an employee is suffering from ill health, but is not absent from work. If an employee believes that their ill health is impacting on their ability to undertake their job, they should consult their manager, who will discuss with them whether any additional support may be provided. Occupational Health can offer further advice and guidance.

### **Medical, dentist and optician appointments**

All staff should try, whenever possible, to attend appointments outside of their normal working hours. Individuals should be prepared to produce an appointment card or similar record of appointment if required, and discuss with their manager a strategy for reducing appointments if there is cause for concern.

An absence of 3 hours 36 minutes or less (for staff on 36 hour week) (pro-rata for part-time staff) for such appointments, should not be recorded as sickness. An absence of more than 3 hours 36 minutes (for staff on 36 hour week) (pro-rata for

part-time staff), will be recorded as one day's sickness. In the case of staff on a 40 hour week it will be 4 hours.

### **Medical redeployment**

Where changes in hours or work practices have proved unsuccessful or are inappropriate it may be necessary to consider, with advice from Occupational Health, whether alternative employment should be sought. Any search for medical redeployment opportunities should be documented and undertaken for a period of up to one month. By exception this period may be extended with the explicit consent of the Operational Director, Human Resources. The redeployment process is outlined in the Managing Change Policy.

If a redeployment search is unsuccessful then at the end of the one month period, the case will be referred for consideration as to whether the employee should be dismissed on the basis of their incapability to undertake their duties.

### **Medical suspension**

Occasionally it may be necessary to suspend a member of staff on medical grounds, in order to ensure that they do not stay at work, or resume work if there is a risk to themselves, to other members of staff or members of the public. Where this action has been taken, but the manager is still concerned, they should consult Occupational Health for advice, during which time the employee must be paid full pay.

### **Planning a return to work**

In many cases, a phased return to work for someone returning from long-term absence will be appropriate. This recommendation will usually come from Occupational Health but is ultimately the decision of the line manager in line with business needs. This may mean a structured return to work over a number of weeks, working reduced hours, or carrying out fewer/different tasks (or both), gradually building up to normal contractual arrangements. This should usually take no more than four weeks. Service provision must be taken into account when planning a phased return and in some instances it will not be feasible.

The employee will normally receive full pay for up to four weeks during a phased return programme and progress will be reviewed weekly. It should not be assumed that all phased returns should be for a period of four weeks as it may be appropriate for a shorter phased return. By exception a phased return may be in excess of four weeks with full or reduced pay as applicable and subject to the explicit consent of the Operational Director, Human Resources.

At the end of the phasing back to work plan, the manager should meet with the employee to establish whether they are ready to meet the full requirements of their role, if they have not already done so.

If necessary, the manager will take further advice from Occupational Health and, in liaison with Human Resources, consider any alternative options such as redeployment on health grounds.

### **Pregnant employees**

If an employee has a pregnancy-related illness, their manager should consider how this could affect them doing their job. Medical information should still be obtained but

these absences should be recorded as 'pregnancy related' and dealt with carefully in consultation with Human Resources. Such illnesses are of a temporary nature and the law gives extra rights and protection to pregnant employees. In particular, an employee should not be subject to any detriment as a result of sickness that is caused by pregnancy. Illness could also trigger an early start to maternity leave. Please refer to Brent's Maternity Policy for more information.

Managers must complete a New and Expectant Mothers Risk Assessment with the employee to highlight any alterations and/or any control measures that need to be implemented once made aware of the pregnancy.

### **Gender reassignment**

Managers must not treat employees less favourably for being absent from work because they propose to undergo, or are undergoing or have undergone gender reassignment than they would treat them if they were absent for reasons of illness.

### **Retirement on the grounds of ill health**

Where an employee is suffering from chronic or acute illness which may render them permanently unfit to carry out their duties efficiently, ill health retirement may be considered prior to convening a formal meeting to consider dismissal on absence grounds. Ill health retirement involves the termination of the employee's employment by resignation or by mutual agreement. Human Resources can offer further advice.

In order to be entitled to an immediate unreduced pension under the Local Government Pension Scheme, an ill health certificate is required from an independent registered medical practitioner qualified in occupational health medicine. Managers who receive a report from Occupational Health recommending retirement on the grounds of ill health will normally meet with the employee, their representative and Human Resources to discuss the report and its implications.

On 1<sup>st</sup> April 2008 a new three-tier Ill Health retirement system was introduced. To qualify:

- Employees must have at least three months in the pension scheme, (including any previous pensionable service which has been transferred in to this Authority);
- The employer must decide to terminate the employee's employment on the grounds that the employee's ill health renders them permanently incapable of carrying out efficiently the duties of their job;
- The employer must decide that the employee has a reduced likelihood of obtaining gainful employment before age 65.

### **Counselling**

A free counselling service is available to all employees as part of the Council's employee benefits arrangements. This includes work-related issues, phase of life issues, major life changes, adjustment problems, traumatic experiences, relationship problems and conditions such as anxiety and depression. Contact details can be found on the intranet <http://intranet.brent.gov.uk/intramain.nsf/News/LBB-2852>

### **Work related injury**

If an employee or manager believes that ill health or injury has been caused by work, the employee should complete the Statutory Accident Book (B1510) and the Council's Accident Report form as soon as possible. The latter should be sent to Health and Safety.

If the absence is caused through illness or accident which is reportable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR), Health and Safety must be informed without delay so that the appropriate form can be submitted to the Health and Safety Executive. For more details about the Council's Accident Reporting Procedure please contact Health and Safety.

If an employee has not completed an Accident Report Form and subsequently believes their health or injury has been caused by work, they must report this in writing to their manager, setting out the reasons why they believe that work has contributed or caused their ill health or injury.

All accidents at work and ill health possibly resulting from work activities must be investigated by the employee's line manager or by Health and Safety. Line managers should also inform their Head of Service and discuss the situation with Human Resources. Advice may also be sought from Occupational Health.

Upon completion of the investigation, a report should be sent to the Head of Service, with a copy to the employee and HR Manager.

The Head of Service will determine with the HR Manager whether or not the employee has sustained an injury as a result of what they were required to do at work.

Written confirmation of the decision will be sent to the employee within five working days of the decision. In the event that ill health or injury is attributed to work, the Council does not accept liability that it is responsible, merely that the illness or injury is work related.

### **Pay during periods of sickness absence**

Employees will receive their contractual sick pay during periods of sickness absence. If employees are absent from work during the notice period, the normal sick pay rules apply.

### **Roles and responsibilities**

#### **Employees**

Employees must inform their manager or alternative designated contact by telephone before their normal starting time on the first day of absence. Managers should be advised of the nature and likely duration of the illness. A contact number should be left if the manager or alternative designated contact is not available to take the call. Failure to do so may lead to the absence being considered as unauthorised, resulting in loss of pay and possible disciplinary action.

Employees must keep in touch with their manager while they are off sick. If the absence is for more than three working days, then they must contact their manager on the 4<sup>th</sup> working day. Employees should provide their manager with regular updates on their condition for the duration of their absence.

Employees must complete a self-certification form on the day that they return to work.

Employees must provide a medical certificate to cover absences longer than seven calendar days. The medical certificate must be provided by no later than the eighth calendar day of absence. Employees will also need to complete a self-certification form to cover the first seven days when they return.

Further medical certificates must be submitted as necessary and in advance of expiry of previous medical certificate to cover the total period of absence. Failure to comply with the certification procedures will result in loss of sick pay and retrospective medical certificates will not be accepted.

### **Line managers**

Line managers will normally maintain regular contact with an employee who is absent from work due to sickness to ensure they receive any support which they need and ease their return to work.

The line manager (or alternative designated contact) will also conduct the return to work interview on the day of return or as soon as is practically possible. If the manager has concerns about the level and/or patterns of sickness absence, the interview should be used as an opportunity to raise these.

### **Occupational Health Service**

Occupational Health Service offers the following core services:

- Pre-employment health screening
- Management referrals for sickness absence
- Advice and guidance on fitness to work
- Statutory health surveillance
- Advice to the Council on relevant legislation
- Case conferences
- Assessment for ill-health retirement
- Stress workshops
- Flu Vaccinations
- Fit for Life wellbeing events
- Pay as you go service

### **Contact with employees who are absent through sickness**

Where feasible the manager should maintain regular contact with the employee. If the employee does not want contact with the line manager then Human Resources must be informed. Contact may be made by telephone, by letter, E-mail or (in agreement with the employee) by home visit. Details of all contact should be recorded.

Following each period of sickness absence the employee's manager will meet with the employee as soon as possible after their return to work to discuss the sickness and return to work arrangements. A record of the meeting should be made.

### **Sickness record is causing concern**

Where the level and/or pattern of sickness absence gives cause for concern, or if (including the most recent episode of sickness) the employee has been sick during the past three months for a total of three or more working days, the manager should use the Return to Work interview to:

- Review the employee's sickness record
- Consider any previous relevant medical information which is available
- Explain the impact of the sickness absence on the service and on work colleagues
- Reinforce what is regarded as an acceptable level and/or pattern of sickness
- Explain that they regard the level/pattern of sickness as a cause for concern
- Discuss the reasons for the sickness absence and any explanation the employee has to offer
- Consider whether there is anything that the line manager can do to help the employee to reduce the level of sickness e.g. any reasonable adjustments that can be made if the employee's sickness is caused by a disability
- If the manager considers that medical advice would be helpful, or if the employee would benefit from having access to the counselling service they should be referred to the Occupational Health Service
- Discuss with the employee that continued absence may trigger action under the formal process.

It is advisable for managers to confirm any discussions in writing.

### **Referral to the Occupational Health Service**

A manager may require an employee to seek the advice of Brent's Occupational Health Service, for example:

- If absence levels are high or frequent or a pattern of absence emerges
- To establish whether there is any underlying medical condition or to gather more information about the sickness or prognosis for recovery
- If a manager considers that an employee is unfit for work
- If it appears that the employee's sickness is caused by work-related stress, working conditions, work activities or work equipment.

Managers should forward a completed management referral form to the Occupational Health Service if they identify that an employee needs occupational health support. The employee should be informed that the referral is taking place and the reasons for it.

The Occupational Health Service will assess the referral and determine the appropriate action. This may involve making an appointment for the employee to see

Occupational Health but generally will involve a telephone meeting. The referring manager will be given advance notification in writing of the date and time of the appointment.

Once a consultation has been undertaken the Occupational Health Service will prepare a report containing clear, meaningful, actionable advice to enable managers to progress cases. The advice must provide managers with enough information to make informed decisions on the next steps to manage the absence in a timely manner. The Occupational Health Service will also send a copy of the report to Human Resources.

Managers should arrange for a copy of the report to be passed to the employee concerned, either directly by hand or sent to the employee's home address.

If there is a discrepancy between the views of Occupational Health and the manager on an individual's capability for work which cannot be resolved by additional medical referrals, it is more productive to hold a case conference. Case conferences may also be helpful in looking at proposed phased return arrangements following a period of long term sickness.

The case conference would normally include the employee, the employee's representative, the employee's manager, Human Resources and Occupational Health.

The Council's conditions of service state that an employee must submit to a medical examination by a medical practitioner nominated by the authority subject to the provisions of the Access to Medical Reports Act 1988 where applicable.

### **Ill health which does not lead to absence from work**

An employee who is not absent from work but is unable to perform aspects of their role because of an illness or disability should be referred by their manager to Occupational Health for a Fitness to Work report.

The line manager should meet with the employee to discuss the outcome of the report and any reasonable adjustments that may be required. The review will determine if arrangements are working. If they are not, a formal meeting (with right of representation) may be required under the Attendance Procedure in respect of 'fitness to work' to consider actions to date and their effectiveness.

It may be appropriate to place the employee in the redeployment pool on medical grounds for up to one month. If redeployment is successfully sought, the employee will move to a new post. If redeployment is unsuccessful, the line manager should hold a second formal meeting to consider actions to date and the redeployment pool search. The outcome of this second formal meeting will be for a senior manager to consider dismissal on the grounds of fitness to work. If the outcome is termination then the employee has a right of appeal.

### **Managing short-term sickness absence**

#### **Triggers for action and target setting**

Occupational Health advice should be sought at the point of formal action being instigated and thereafter as appropriate.



	Triggers	Actions for Manager & Targets
1.	<p>Either</p> <p>Three occasions of sickness in a rolling three month period</p> <p>Or</p> <p>Two or more occasions of sickness amounting to nine working days or more in a rolling twelve month period</p>	<p>Stage 1 – Line Manager</p> <ul style="list-style-type: none"> <li>• Convene a Stage 1 Review meeting at which set initial target normally no more than three working days of sickness in three months. This would only not take place if the manager was satisfied that this level of absence was out of the ordinary</li> </ul>
2.	<p>Failure to meet the target level set at the Stage 1 Review meeting</p> <p>(Stage 2 can be instigated at any time following Stage 1 and a reasonable approach will be taken)</p> <p>(Where circumstances justify stage 3 can be instigated following Stage 1 subject to the agreement of the Operational Director Human Resources</p>	<p>Stage 2 – Line Manager</p> <ul style="list-style-type: none"> <li>• Progress to Stage 2 Review meeting at which set further target normally no more than three working days of sickness in three months unless satisfied levels have improved</li> </ul> <p><i>If target met, further target of zero days over next three months to be set</i></p>
3.	<p>Failure to meet target level set at the Stage 2 Review Meeting</p> <p>(Stage 3 can be instigated at any time following Stage 1 and a reasonable approach will be taken)</p>	<p>Stage 3 – Strategic Director, Operational Director or Head of Service</p> <p>Presenting Manager – Line Manager</p> <ul style="list-style-type: none"> <li>• Progression to Stage 3 Review meeting</li> <li>• Consider dismissal</li> </ul> <p><i>If target met, further target of zero days over next three months to be set</i></p> <p><i>If target not met but dismissal not recommended a further target of zero days over next three months to be set. If this is not adhered to dismissal will occur, save exceptional circumstances as advised by the Operational Director, Human Resources</i></p>
4.	If employee is dismissed	Right of Appeal

The triggers are a guide; however, managers are expected to manage sickness absence which is causing concern that does not necessarily fit into the above trigger categories. These will include patterns of sickness absence involving Monday and Friday or sickness absence at the front or end of a bank holiday or sickness absence immediately prior to action being instigated under the sickness procedure.

There will be circumstances where triggers have been met but a decision is taken not to instigate formal proceedings. Such decisions will be taken by the Operational Director Human Resources and the circumstances will be exceptional.

At all stages of the formal process the manager must investigate the reason for the sickness levels; the effect of sickness on the service and colleagues; Occupational Health advice (where appropriate); the strategy for reducing the sickness levels; and the consequences of sickness levels not reducing i.e. progressing to the next stage of dismissal.

The attendance arrangements and procedures apply to disability related sickness absence. However, when considering sickness absence involving a disability the scope to make changes to an employee's working conditions in terms of making reasonable adjustments will be explored to ensure that disabled workers are not disadvantaged and are able to continue in the employment of the Council wherever possible. Reasonable adjustments could include changing working hours, adjustments to the working environment and providing specialist equipment.

The employee is entitled to representation at all stages of the formal procedure and should be given reasonable notice of the meeting. The outcome of the meeting will be confirmed in writing.

### **Improvement during monitoring period**

If attendance is satisfactory during the monitoring period managers should advise the employee accordingly in writing at the end of the monitoring period and remind them of the need to sustain the level of improvement. The letter must also advise that if the employee has no sickness absence for a further three month period, then they will come out of the procedure and any future sickness absence will be dealt with separately. The letter should also warn that in the event of further short-term sickness the formal procedure may start at Stage 2.

### **Relationship between long-term and short term sickness**

If an employee returns from a period of long term sickness but is then absent due to short term periods of sickness, the period of long term absence will count as one period of sickness for the purpose of triggers. The sickness will then be managed under the short term sickness procedure.

Where it is decided to convene a Final Stage 3 hearing the presenting manager will prepare a case summary and will write to the employee giving notice of the Final Formal Stage 3 meeting which should be chaired by a Strategic Director; Operational Director; or Head of Service and a Human Resources representative should be present. The letter will outline that a possible outcome is dismissal.

The employee may request a postponement of the hearing of up to five working days to enable their representative to attend the hearing. Any alternative time and date proposed by the employee must be reasonable. The senior manager conducting the

hearing (“the Hearing Officer”) will decide whether the postponement should be allowed.

A letter will be sent to the employee within 5 working days of the meeting to confirm the issues considered, the decision and any right of appeal. Notice or pay in lieu of notice will be payable if an employee is dismissed.

### **Factors for the Stage 3 Hearing Officer to consider**

The Employment Appeal Tribunal has set out the following factors that should be considered before a dismissal decision is taken in a case of persistent short-term sickness absence:

- The nature of the illness
- The likelihood of recurrence, or some other illness arising
- The length of the various absences and the spaces of good health between them
- The need of the employer for the work to be done by the employee
- The impact of the absences on other employees
- Following the correct procedure
- The ability of the employee to give regular and efficient service
- The extent to which the employee has been made fully aware of the employer’s position and when the point of “no return” would be reached.

### **Medical advice in relation to dismissal**

The decision to dismiss is not a medical one, but a managerial one based, among other things, on medical opinion(s), however:

- While the absence of a medical diagnosis or prognosis does not preclude the manager taking action to dismiss an employee, nonetheless without a medical referral an Employment Tribunal could view the dismissal as unfair;
- Managers should not make medical judgements.

### **Alternative options to dismissal**

These may include:

- Reviewing the case after getting more information
- Establishing a further time scale for improvement
- Consideration of alternative employment within the Council if this has not already happened, and in that context to consider whether retraining will be required for the employee to perform effectively in the new role

- Referral to Occupational Health for consideration of ill health retirement or redeployment if this has not been considered previously
- Variation of the employee's hours and/or duties with the employee's agreement
- Making reasonable adjustments to the employee's working conditions where the sick absence is caused by the employee's disability.

## Managing long term sickness absence

### Triggers for action

	Trigger	Action for Manager
	Three weeks continuous sickness	Stage 1  1. Begin regular contact with the employee if this has not started earlier  2. Refer to Occupational Health Service for assessment
	After two months continuous sickness	Stage 2  Convene a Sickness Review meeting
	No later than three months continuous sickness	Stage 3  Refer case to senior manager (Strategic Director, Operational Director or Head of Service) to consider taking a decision to dismiss
	If employee is dismissed	Employee right of appeal

### Case review

Long term sickness is defined as continuous sickness for three weeks or more and where there is no definitive date for the employee to return to work in the near future.

The manager should regularly review long term sickness cases. In order to come to a reasonable judgement the manager will need to have accurate and up to date medical information.

The manager will refer the employee to the Council's Occupational Health Service once the employee has been off continuously for a period of three weeks, and there is no definite indication of an early return to work.

### **Review meeting**

At Stage 2 or Stage 3 the manager will write to the employee and explain the purpose of the meeting. The employee should also be advised in the letter of their rights to be represented.

During the review meeting the manager will discuss with the employee the serious concern that exists about the length of the sickness absence. The employee in turn will be given the opportunity to explain any factors or personal circumstances that they would like taken into account in the overall case assessment.

The manager must tell the employee if they feel that the employee's future employment is potentially at risk, set a deadline for review, and confirm in writing.

A Strategic Director, Operational Director or Head of Service, will chair a Stage 3 hearing to consider dismissal.

### **When it is appropriate to dismiss on the grounds of long term sickness**

An employer can fairly dismiss an employee due to long term absence, based on incapacity to perform the job. When considering whether to dismiss an employee due to long term absence, the need to ensure the efficient operation of the service in the final analysis override the employee's need to remain in employment. In the case of long term sickness, dismissal can take place where an employee has been off sick continually for 3 months and where there is no date for return to work. Sick pay does not need to be exhausted before dismissal can take place.

### **Appeal against decision to dismiss on the grounds of absence due to ill health**

Any employee who is dissatisfied with a decision to dismiss on the grounds of absence due to ill health may appeal to ("the Appeal Hearing Officer"). The Appeal Hearing Officer will be at the level of seniority of Strategic Director, Operational Director or Head of Service who will be at the same level of seniority or at a higher level than the manager who took the decision to dismiss, and will be the manager specified in the letter to the employee confirming the outcome of the hearing. The manager who took the decision to dismiss will normally present the management case at the appeal hearing. The appeal must be lodged within 10 working days of the date of the letter confirming the dismissal decision.

The appeal must be made in writing and must clearly and specifically state in detail the ground or grounds for appeal and the detailed basis for each ground of appeal relied on. The ground(s) for appeal must fall within one or more of the following categories:

- There was a procedural irregularity which had a material effect on the dismissal decision
- The hearing officer came to a conclusion on a material point of fact which no reasonable person could have come to

- The decision to opt for dismissal rather than an alternative option was one that would not have been reached by any reasonable person
- There is new evidence which the employee wishes to introduce for the first time at the appeal which could not reasonably have been raised at the original hearing and the absence of which had a material effect on the dismissal decision.

Where the letter of appeal does not provide the necessary information to allow it to be processed Human Resources will write to the employee seeking clarification.

The Hearing Officer will arrange for the appeal to be heard as soon as reasonably practicable and reasonable notice will be given.

The meeting may be postponed by up to 5 working days to enable the employee's chosen representative to attend.

For the appeal the employee will be asked to attend a hearing where they have the right to be accompanied by a representative (another Brent Council worker, a certified union official or an official employed by a trade union).

The appeal hearing will not constitute a full re-hearing of the case. It will only address the specific grounds of appeal set out in the letter of appeal. The Appeal Hearing Officer can refuse to consider any new evidence if they decide it is unreasonable for it to be raised for the first time at the appeal.

The Hearing Officer and the employee will provide each other with any documents to be used by them and the names of any witnesses to be called by the third working day before the appeal hearing.

The Appeal Hearing Officer will chair the meeting and Human Resources will be in attendance. In all cases the Strategic Director/Operational Director or Head of Service will be assisted by a Human Resources representative. The Appeal Hearing Officer's decision will be final and there shall be no further internal right of appeal.

The Appeal Hearing Officer will have the authority to confirm the dismissal decision or to overturn it. In the latter event, re-instatement or re-engagement with continuous service will apply and the officer will have the authority to decide on an alternative option to dismissal.

Where the Appeal Hearing Officer decides to uphold the appeal in the case of procedural flaw or new evidence they will have the discretion to refer the case back for a rehearing. Where the case is referred back for a rehearing they will decide whether the case should be reheard by the same officer who originally heard the case or by a different hearing officer.

If the appeal is on the grounds of new evidence, referral to the original hearing officer will be for the consideration of the new evidence together with any of the original evidence which is relevant to the new evidence in order to reach a decision.

### **Managing Alcohol, Drugs and Substance Misuse**

The Council is committed to helping employees who are experiencing alcohol, drugs and substance misuse. Misuse can take various forms including inappropriate use, habitual use and excessive use. If there is no evidence of a medical issue and where

performance and/or the Council's reputation is adversely affected, managers will address this through the relevant procedures. Where misuse relates to a medical issue, employees will be supported where possible.

Employees are expected to comply with the Council's Code of Conduct in respect of alcohol usage and must not report to work under the influence of alcohol and inform their line manager of the reason for their non attendance.

Employees are expected to comply with the Council's Code of Conduct in respect of illegal drugs and banned substances.

Employees on prescribed medication that may affect their work performance must notify their line manager who may seek advice from Brent's Occupational Health Service.

Employees can seek advice and assistance on a confidential basis by contacting the Council's Employee Assistance Programme or through Occupational Health. Counselling can be arranged through the employee's GP or by contacting one of the agencies listed on the intranet.

Employees in safety critical/customer facing roles must not consume alcohol whilst at work or during breaks. Where a manager has a concern they may require the employee to undergo an alcohol/drug test.

If a manager suspects misuse or an employee approaches their manager to raise an issue of misuse a confidential discussion should be undertaken with the employee.

If a manager considers an employee unfit to conduct a discussion due to the immediate effect of alcohol, drug or substance misuse, they should arrange for the employee to return home safely. The line manager should discuss the matter with the employee at the next available opportunity to explore with the employee the issues of concern relating to the employee's work performance, conduct, health, attendance at work or effect on the Council's reputation and any underlying causes.

### **Occupational Health Service**

When dealing with problems caused by suspected misuse, managers should arrange appropriate assessment through Brent's Occupational Health Service and fully investigate all the circumstances before deciding on the appropriate action.

Involvement of Occupational Health is particularly important where work related stress is identified as a trigger for the employee's problematic use of alcohol, drugs or other substances, or where the manager considers the employee's problematic use of alcohol, drugs or other substances may be caused by or constitute a medical condition.

Employees are required to attend appointments with the Council's Occupational Health Service.

### **Recovery action plan**

The manager in consultation with the employee should put in place an action plan with timescales to address the alcohol, drugs or substance misuse. This should be documented and kept by both parties. The plan will include arrangements for monitoring and review.

## **Dealing with relapses**

If any employee relapses during or after treatment, this should not be seen as failure or lack of commitment by the employee to tackle the problem as this is common in managing substance misuse problems. Managers should be prepared for this and be willing to support the employee in trying again on at least one more occasion.

In the case of the first relapse, a further interview and assessment, through Occupational Health Service, should be arranged.

While the manager's co-operation and flexibility is essential to enable an employee to be successfully treated, there may come a point when the Council is no longer able to support an employee because the risk to health and safety is unacceptable or because the employee:

- Refuses to admit they have an alcohol, drug or substance misuse problem; or
- Has relapsed on more than one occasion or
- Refuses to attend or continue counselling/treatment

In such circumstances consideration should be given to dealing with the matter under the Council's disciplinary, capability or attendance procedures and the most likely outcome will be dismissal.

## **Time off to attend counselling/rehabilitation**

Any time off to attend counselling/rehabilitation sessions will be treated in the same way as absence due to sickness. Such time off must not be taken without prior agreement of the employee's manager, and the manager may refuse time off on a particular day if he/she considers this is inconsistent with service delivery requirements. Brent will only pay for counselling available through its existing employee benefits offer.