

STAFFING COMMITTEE

Date:- Tuesday, 13 December 2016 **Venue:- Town Hall, Moorgate Street, Rotherham.**
Time:- 12.30 p.m.

AGENDA

1. To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.
2. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
3. Redundancy Consultation & HR1 Notification (report herewith) (Pages 1 - 7)
4. Exclusion of the Press and Public.
The following items are likely to be considered in the absence of the press and public as being exempt under Paragraphs 1 and 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (staffing matters and finance or business affairs).
5. Terms & Conditions and Section 188 Notice (Officers to report)
6. Legal Services Market Supplement (herewith) (Pages 8 - 16)

Summary Sheet

Staffing Committee Report – 13th December, 2016

Redundancy Consultation & HR1 Notification

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Shokat Lal Assistant Chief Executive

Report Author(s)

Ian Henderson Principal HR Officer (Pay & Performance)

Ward(s) Affected

Not applicable

Summary

The Council needs to achieve in excess of £40m of savings in the years to 2020. Given the proportion of net costs which relate to employees it is inevitable that a significant proportion of these savings will come from employee costs. Currently agreed plans and proposals under consideration, for 2017/18, mean that up to 166 posts are expected to be deleted in the next year. Estimates for the period to 2020 are between 1000 and 1200 posts.

This report provides an overview of the consultation requirements associated with making employees redundant.

Recommendations

Staffing Committee is recommended to: -

- Note the issues and consultation requirements
- Decide whether consultation will be for a single year or the whole period. The HR1 form will then be completed accordingly and be updated on an annual basis.

List of Appendices Included

None

Background Papers

SLT Budget reports
ACAS guide to Handling large scale redundancies

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Redundancy Consultation (HR1 Notification)

1. Recommendations

- 1.1 Note the consultation requirements
- 1.2 Decide whether consultation will be for a single year or the whole period. The HR1 form will then be completed accordingly and be updated on an annual basis.

2. Background

- 2.1 The Council MTFP sets out a requirement for savings in the next 3 years of well in excess of £40m in order to balance its budget. A significant proportion of these savings will be made from employee costs; in some cases this will be as a result of redundancies.
- 2.2 The Workforce Strategy identifies a reduction of at least 1000 full time equivalent (fte) posts by 2020/21. Whilst some of these reductions will be mitigated, it is inevitable that a significant number of redundancies will result from these changes.
- 2.3 If an employer envisages changes that may result in redundancies they are required to notify the relevant government department (currently the Redundancy Payments Service (RPS)) using Form HR1. They are also required to copy the notification to recognised trade unions at the same time; this in effect initiates a period of consultation on the proposals.
- 2.4 An employer is required by employment law to enter into consultation with trade unions on proposed or potential redundancies 'in good time'. Where more than 100 redundancies are envisaged consultation must be for not less than 45 days and the consultation must be undertaken with a view to reaching agreement – although there is no requirement to agree.
- 2.5 The employer must legally provide the following information to the Trade Unions :-
 - reasons for the proposed redundancies
 - numbers and descriptions of employees affected
 - proposed method of selecting the employees who may be dismissed
 - proposed method of carrying out the dismissals, taking account of any agreed procedure, including the period over which the dismissals are to take effect
 - how redundancy payments, other than the legal minimum, will be calculated.

- 2.6 The period of consultation must have been completed before any notice of redundancy is issued. If either, consultation does not meet legal requirements or has not been completed before notice is issued, the Council may face what is known as a protective award. This is an award made by a Tribunal to reflect the failure and would be the award of a number of days pay up to 90 days.
- 2.7 Strictly speaking the HR1 should relate to redundancies expected within 90 days but in reality - given its use with the TUs – it normally covers a longer period. RPS will allow 1 adjustment to an existing HR1 but will normally require a new submission if further changes or different periods apply.

3. Scale of Reduction

Next Three Years

- 3.1 The Workforce Strategy provides an indication of 1000 fte reductions by 2020; this is based on an assumption that the Council will be significantly smaller and that a proportion of savings will be generated directly by workforce reductions. The Council has already reduced in size by 1500 in the last 6 years whilst saving £140m+.
- 3.3 However, experience shows that in councils the proportion of costs from workforce reductions increases as further cost reductions are sought. This results from 2 main causes. First, low hanging fruit has been taken and the options become more limited – eg contract savings which have a marginal impact on staffing and secondly the reduced scale of the organisation generates its own reductions – fewer support staff, less building to maintain etc.
- 3.3 Workforce costs currently constitute approximately 60% of net revenue in the Council. In order to model the impact of cost reductions on the workforce requirement, an assumption has been made that from 2017 onwards, 45% of all direct cost reductions will be employee related.
- 3.4 It is then assumed that this reduction will generate a reduced support requirement equivalent to 30% of that number. Using the approximate average pay as £25k, this would mean 960 posts would be lost. This has then been rounded to 1000.
- 3.5 Using this approach, if the savings requirement is increased to £50m+, the assumptions would generate a workforce reduction of 1200 fte. There are 2 other considerations, first the lower the pay the more that are impacted and second, many low paid are also part time – so more people are impacted per fte.

2017/18

- 3.6 The budget proposals for 2016/17 originally included a potential for the loss of 180 fte posts for 2017/18 but this has been revised down to 90.8 fte. Current ASRs for 2017/18 show an estimated 75.2 fte posts.

4 Consultation

- 4.1 There is often confusion about 'what' redundancy applies to. A post is deleted – it is not redundant. This may lead to an employee being at risk of redundancy – employees are made redundant. Consultation requirements do not relate to the number of posts to go but to the expected number of redundancies.
- 4.2 An employer is required to seek to mitigate the impact of its proposals on its workforce. This can include measures such as reducing the use of agency staff or deleting vacant posts.
- 4.3 In the case of the current proposals relating to 2017/18, there are a significant number of vacant posts which may be used to offset the impact of the proposals. There may also be opportunities to redeploy at risk employees into posts currently filled by agency staff.
- 4.4 The key issue for the Council is whether staff at risk of redundancy have, or could acquire, the skills to fill vacant or agency roles. The Council's policy on redeployment provides for a 4 week trial period, which is consistent with employment practice, but in most cases may not be adequate time for an employee to demonstrate they can take on a new role.

5. Options considered and recommended proposal

- 5.1 The Council has two options with regard to the consultation it undertakes at this stage. These are either to consult on the overall position for the next three years or, given the level of uncertainty relating to proposals for future years, to initiate a consultation on the 2017/18 only. The issue of the HR1 would match the chosen approach.
- 5.2 If the Council opts to consult only on 2017 proposals the consultation period would be 45 days; however, there would then need to be further, subsequent periods of consultation. If the consultation relates to the three year period, and therefore more than 100 employees, the consultation period will still be 45 days.
- 5.3 There are pros and cons to each option. The longer period reduces the extent of corporate consultation but the risk is that Trade Unions will complain of a lack of detail. Even if the shorter period is adopted there remains a risk that it will be necessary to revisit discussions on at least an annual basis, if not more frequently.

6. Consultation

- 6.1 Consultation has taken place with the Strategic Leadership Team.

7. Timetable and Accountability for Implementing this Decision

7.1 The required consultation period (and issue of an HR 1) needs to begin no later than 45 days prior to the first redundancy taking place. A failure to follow consultation rules will probably result in any dismissal being considered unfair and may result in a protected period.

8. Financial and Procurement Implications

8.1 A failure to notify RPS can lead to a fine up to £5,000.

9. Legal Implications

9.1. There is legislation setting out the legal requirements for making employees redundant. A failure to follow legislative requirements would expose the Council to potentially costly Employment Tribunal claims.

10. Human Resources Implications

10.1 Information contained within the report and meets standards of fairness and equality required by employment legislation.

11. Implications for Children and Young People and Vulnerable Adults

11.1 Proposals in this report could impact on employees in Children's and Young People's Services and Adult Social Care.

12. Equalities and Human Rights Implications

12.1 Fair treatment is a requirement of employment and equalities legislation. These proposals can be objectively justified.

13. Implications for Partners and Other Directorates

13.1 Proposals in this report do not impact on Partners

14. Risks and Mitigation

14.1 There is a risk that the RPS may not accept the period of a HR1 submitted in which the redundancies occur over and above a 90 day period.

14.2 A failure to follow consultation rules would expose the Council to potential unfair dismissal claims at Employment Tribunal.

15. Accountable Officer(s)

Shokat Lal Assistant Chief Executive

Approvals Obtained from:-

Strategic Director of Finance and Corporate Services:- Judith Badger

Director of Legal Services:- Dermot Pearson

Author (S)

Ian Henderson Principal HR Officer (Pay & Performance)

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