To: The Members of the Human Resources Sub-Committee

18 October 2010

Dear Councillor

Your attendance is requested at a meeting of the HUMAN RESOURCES SUB-COMMITTEE of the EXECUTIVE COMMITTEE of the BUCKINGHAMSHIRE AND MILTON KEYNES FIRE AUTHORITY to be held in Meeting Room 1 at Fire and Rescue Headquarters, Stocklake, Aylesbury on TUESDAY 26 OCTOBER 2010 at 10.00 am when the business set out overleaf will be transacted.

Yours faithfully

Clerk to the Fire Authority

Councillors Baldwin, Brand, Dransfield, Rogerson and Rowlands

If you have any enquiries about this agenda please contact: John Moffoot Tel: (01908) 252314 e-mail: john.moffoot@milton-keynes.gov.uk
HUMAN RESOURCES SUB-COMMITTEE

TERMS OF REFERENCE

1. To determine all personnel issues, including the Service Personnel Policy.

2. To consider and make decisions on behalf of the Authority in respect of the appointment of the Chief Fire Officer and Chief Executive, taking advice from suitable advisers.

3. To consider and make decisions on behalf of the Authority in respect of the appointment of the Deputy Chief Fire Officer Assistant Chief Officers, Director of Finance and Director of Human Resources, or interim appointments to those posts, taking advice from the Chief Fire Officer and suitable advisers.

4. To act as the Employers’ Side of a negotiating and consultation forum for all matters relating to the employment contracts of the senior officers of the Service, defined for the purpose as the Chief Fire Officer and Chief Executive, Deputy Chief Fire Officer, Director of Human Resources, Assistant Chief Fire Officers and Treasurer.

5. To hear grievance, disciplinary and redundancy appeals in accordance with the Authority's Policies.

6. To advise the Executive Committee on any human resources issues arising from the Authority’s budget process and improvement programme.

7. To determine policies, codes or guidance after considering recommendations from the Standards Committee in respect of:
   
   (a) regulating working relationships between members and co-opted members of the Authority and the employees of the Authority;

   (b) governing the conduct of employees of the Authority.
AGENDA

Item No:

1. **Election of Chairman**
   
   To elect a Chairman for 2010/11.

2. **Appointment of Vice-Chairman**
   
   To appoint a Vice-Chairman for 2010/11.

3. **Apologies**

4. **Minutes**
   
   To approve, and the Chairman to sign as a correct record, the Minutes of the meeting of the Sub-Committee held on 11 June 2010 (Item 4) (Page 4).

5. **Disclosure of Interests**
   
   Members to disclose any personal or prejudicial interests they may have in the business to be transacted and officers to disclose any interest in contracts to be considered by the Sub-Committee.

6. **National Minimum Wage (NMW) Changes from 1 October 2010**
   
   To consider Item 6 (Pages 5 to 6).

7. **Policy and Procedures for Managing Organisational Change including Redundancy**
   
   To consider Item 7 (to follow).

8. **Senior Officers' Remuneration Procedure**
   
   To consider Item 8 (to follow).

9. **Exclusion of Public and Press**
   
   To consider excluding public and press representatives from the meeting by virtue of Paragraph 1 (Information relating to any individual) of Part 1 of the Schedule 12A of the Local Government Act 1972 in order that the Sub-Committee may consider the following matter:

   Performance Review: Remuneration for Chief Fire Officer/ Chief Executive Officer and Principal Fire Officers

10. **Performance Review: Remuneration for Chief Fire Officer/ Chief Executive Officer and Principal Fire Officers**

    To consider Item 10 (to follow).
Minutes of the meeting of the HUMAN RESOURCES SUB-COMMITTEE of the EXECUTIVE COMMITTEE of BUCKINGHAMSHIRE AND MILTON KEYNES FIRE AUTHORITY held on 11 JUNE 2010 AT 10.45 am

Present: Councillor Rowlands (Chairman)
Councillors, Dransfield, Baldwin, Brand and Rogerson

Officers M. Jones (Chief Fire Officer and Chief Executive), J Moffoot (Clerk) and S Heap (Committee Manager)

HR15 MINUTES
RESOLVED –
That the Minutes of the meetings of the Human Resources Sub-Committee held on 1 and 3 March 2010, be approved and signed by the Chairman as a correct records.

HR16 EXCLUSION OF THE PUBLIC AND PRESS
RESOLVED –
That the press and public representatives be excluded from the meeting by virtue of Paragraph 1 (Information relating to any individual) of Part 1 of Schedule 12A of the Local Government Act 1972 in order that the Sub-Committee may consider the following matter:

Appointment of Director of Human Resources.

HR14 APPOINTMENT OF DIRECTOR OF HUMAN RESOURCES
The Sub-Committee consider the appointment of a Director of Human Resources following interviews held recently.

RESOLVED -
That the appointment of Lynne Swift as Director of Human Resources be confirmed.

THE CHAIRMAN CLOSED THE MEETING AT 10.55 AM
Buckinghamshire & Milton Keynes Fire Authority

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<td>26 October 2010</td>
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<tr>
<td>OFFICER</td>
<td>Lynne Swift, Director of HR</td>
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<tr>
<td>LEAD MEMBER</td>
<td>Councillor Mary Baldwin</td>
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<tr>
<td>SUBJECT OF THE REPORT</td>
<td>NATIONAL MINIMUM WAGE (NMW) CHANGES FROM 1 OCTOBER 2010</td>
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**EXECUTIVE SUMMARY**

The existing hourly rate for cleaning staff will drop below the national minimum wage (NMW) which increases to £5.93 for employees aged 21 and above from October 1, 2010. The cleaners’ current hourly rate is £5.87 which was seven pence per hour above the NMW prior to the 1 October 2010 increase.

The staff salary scale needs to be increased in line with the new NMW statutory minimum of £5.93 per hour from 1 October 2010.

**ACTION**

Decision

**RECOMMENDATIONS**

That the cleaners’ salary scale is matched annually to the statutory minimum wage from 1 October 2010.

**RISK MANAGEMENT**

Failure to comply with NMW payments renders an employer liable to service of notice of underpayment by the HM Revenue & Customs (HMRC) requiring payment of a financial penalty to the Secretary of State. The HMRC can institute civil or criminal proceedings against an employer for contraventions of NMW legislation.

A worker who does not receive the NMW to which he or she is entitled may bring a claim for an unlawful deduction from wages at a tribunal or for breach of contract either in the employment tribunal or the county court. In all claims it will be presumed that the worker has not been paid the NMW unless the employer can prove to the contrary (section 28, NMW Act 1998).

**FINANCIAL IMPLICATIONS**

This recommendation affects seven staff. The average increase would be six pence per hour for each member of staff. Total annual increase to payroll is £462.00. This may increase slightly if any overtime activity were to be undertaken.

**LEGAL IMPLICATIONS**

The recommendation protects the Authority, and individual Members, from civil or criminal liability.
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<th>No direct impacts.</th>
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<tr>
<td><strong>EQUALITY AND DIVERSITY</strong></td>
<td>Implementing the recommendations in this paper will ensure compliance with the minimum wage.</td>
</tr>
<tr>
<td><strong>USE OF RESOURCES</strong></td>
<td>No significant impact. Payroll will adjust the salary scales to conform.</td>
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<tr>
<td><strong>PROVENANCE SECTION &amp; BACKGROUND PAPERS</strong></td>
<td>This is currently an annual event when statutory minimum wages are reviewed, on October 1 each year.</td>
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<tr>
<td><strong>TIME REQUIRED</strong></td>
<td>10 minutes</td>
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<tr>
<td><strong>REPORT ORIGINATOR AND CONTACT</strong></td>
<td>Steve Foster, Group Manager HR, 01296 744644 <a href="mailto:sfoster@bucksfire.gov.uk">sfoster@bucksfire.gov.uk</a></td>
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</tbody>
</table>
**MEETING** | Human Resources Sub-Committee
---|---
**DATE OF MEETING** | 26 October 2010
**OFFICER** | Lynne Swift, Director Human Resources
**LEAD MEMBER** | Councillor David Rowlands
**SUBJECT OF THE REPORT** | Policy and Procedures for Managing Organisational Change including Redundancy

### EXECUTIVE SUMMARY

Members will recall that the Executive Committee, following discussion at its meeting held on 1 October 2010, resolved that the proposed Managing Organisational Change Policy and Procedures and the Redundancy Policy and Procedures would be referred to the Human Resources Sub-Committee for final approval.

Members requested specific amendments, agreed at the recent Executive Committee, which have been incorporated into the revised policies and procedures. Best practice queries raised by Members are covered in the background and provenance section of this report.

Members are asked to acknowledge the amended timeline (Annex C) of the Moving Forward Organisational Change programme, which defers formal consultation by two weeks, to allow approval of these revised policies and procedures.

### ACTION

Decision

### RECOMMENDATIONS

That the Human Resources Sub-Committee:

1. Approve the revised proposed Managing Organisational Change Policy and Procedures

2. Determine the discretions policy (see Legal Implications section below) to be applied to the calculation of a week’s pay for the purposes of redundancy payments under the Local Government (Early Termination of Employment) (Discretionary Compensation) England and Wales Regulations 2006.

3. Determine the discretions policy (see Legal Implications section below) to be applied to enhanced severance pay for the purposes of redundancy payments under the Local Government (Early Termination of Employment) (Discretionary Compensation) England and Wales Regulations 2006.

4. To delegate the authority to the Director of Human Resources to finalise the redundancy policy and
5. Approve, and agree to regularly review, the Redundancy Policy and Procedures

### RISK MANAGEMENT

Initial assessments of the Moving Forward change programme and the two policies and procedures have highlighted the following potential risks:

- A range of employee relations issues including legal challenge
- Loss of experience, high level skills and corporate knowledge
- Organisational reputation
- Impacts on individuals relating to health and wellbeing
- Challenged to fairness of selection if a redundancy situation
- Effectively resourcing the change programme whilst maintaining day to day services delivery.

These risks and mitigating actions are included in the corporate risk register.

Members are asked to acknowledge that introducing the two policies and procedures are in themselves mitigating actions to minimise risks. They provide transparent, fair and consistent procedures to reduce risk to the Authority and minimise adverse impacts to individuals.

Other actions taken to reduce risk include equality impact assessments, introduction of a workforce migration plan aimed at avoiding redundancies, where possible, through such measure as redeployment; non-replacement of leavers; recruitment restrictions; phasing the change programme; setting up a dedicated programme management team and management training.

An informal consultation stage, beyond legal requirements, involving staff groups and representative bodies has been included in the change programme to encourage staff involvement.

Members are assured that risk will be reviewed throughout the phased change programme and mitigating actions revised accordingly. Members will be kept informed of developments.

### FINANCIAL IMPLICATIONS

There is no direct financial impact of approving these policies. Any financial implications will be reported to members as part of the Moving Forward agenda within the wider context of the Medium Term Financial Plan (MTFP).

### LEGAL IMPLICATIONS

These proposed policies and procedures meet the Authority’s obligations under employment law and support the Authority’s equality and diversity objectives.

This is a complex area of employment law with a number of different statutes determining the Authority’s obligations and power to exercise its discretion, these are summarised...
Determining the amount of a week's pay for the purposes of calculating a redundancy payment

The statutory redundancy scheme under the Employment Rights Act 1996 ("ERA 1996") requires an employer to make a payment upon redundancy, the amount of which is dependant upon the employee’s age, length of service (subject to the statutory maximum), and weekly pay (subject to the statutory maximum)

Length of service is based on continuity of service with the Authority or any other local authority or bodies specified in the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999 [1999/2277]

Under the Employment Equality (Age) Regulations 2006 [2006/1031] an employer who makes a redundancy payment to an employee in accordance with the statutory redundancy scheme does not have to justify it. Both the statutory authority exemption (in regulation 27) and this regulation make it clear that this is acting lawfully, even though the calculation of the payment is using age-related criteria.

Regulation 33 provides an exemption from age-related discrimination where an employer decides to make payments that are more generous than the statutory provisions under the ERA 1996 provided that the starting point for calculations is based on the statutory scheme. i.e using the week’s pay multipliers in line with the statutory age bands formulae

Regulation 33 will be revoked by Schedule 27 of the Equality Act 2010, but its provisions will be replicated in paragraph 13 of Schedule 9 of the Equality Act 2010

Local authorities have powers to calculate redundancy payments on an employee’s actual weekly pay under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 ("the 2006 Regulations") over and above the statutory maximum week’s pay prescribed under the Employment Rights Act 1996 (£380 from 1 October 2009).

As well as the power to calculate redundancy payments on an actual week’s pay, local authorities are able to pay an enhanced severance payment, for example to reflect actual years of continual service, up to 104 weeks’ pay (including the statutory redundancy pay) to an eligible employee under the 2006 Regulations.

An eligible employee is one who is, or is eligible to be, a member of the Local Government Pension Scheme and thus does not apply to non-eligible staff to whom the Authority only has the power to make payments under the statutory scheme.

If, moving forward, any discretions are available to the authority in respect of staff employed that are eligible for other pensions schemes, then the authority will be informed.
and a revised policy including any new discretions will be presented to Members for approval.

The 2006 Regulations require each employing authority to formulate, publish and keep under review the policy that they apply in the exercise of these two discretionary powers.

In formulating and reviewing their policy the authority must:

a) have regard to the extent to which the exercise of their discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service; and

b) be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

The proposals set out in this report and annexes enable the Authority to comply with its statutory obligations.

If the Authority were later to decide to change the policy, it must publish a statement of the amended policy and may not give effect to any policy change until one month after the date of publication.

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<td><strong>EQUALITY AND DIVERSITY</strong></td>
<td>An initial Equality Impact Assessment (EIA) of both policies and procedures raised the following issues.</td>
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<td></td>
<td>• The organisational change procedures are designed to minimise any risk of adverse equality implications.</td>
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<td>• The criteria and selection for redundancy process is the most critical section of the procedures to minimising adverse impacts. For example prior to proposing criteria for determining selection for redundancy, traditional selection methods; for example last in first out (LIFO) and variations of it were discounted on the grounds of potential gender discrimination.</td>
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<td>• A potentially negative impact is the impact any service reduction may have on providing support to specific groups within communities eg the elderly and young people. The proposed service delivery structure is being scrutinised against this finding, prior to agreeing the structure for formal consultation.</td>
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<td>Further EIAs are scheduled to be carried out at key stages of the change programme i.e prior to determining &quot;at risk &quot;groups for potential redundancy.</td>
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<td>The specific issues raised at Executive Committee on 1 October 2010 relating to &quot;capping&quot; redundancy payments is covered in the Background and Provenance section of this report.</td>
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<tr>
<td><strong>USE OF RESOURCES</strong></td>
<td>The outcome of the Moving Forward Organisational Change programme will be to ensure a more efficient and effective skills deployment and organisation of our staff resources.</td>
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<td>All reasonable efforts will be made to minimise or reduce</td>
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The Authority is embarking on a period of significant change and in an environment of significantly reducing public expenditure. It is important both for reasons of fair and effective management practice and legal compliance to manage such change in a structured, consistent manner.

This requires the Authority to adopt and implement appropriate Human Resource Management (HRM) policies and procedures.

Many of the existing HRM policies and procedures are in need of review and others relating to delivering the Authority’s strategic priorities are not yet in place. This latter comment applies to the area of managing organisational change and dealing with any redundancies that may arise in the workforce.

The two documents that have been referred to this Committee for approval have been prepared to provide the Authority with an appropriate structured framework for making and implementing its decisions in this area.

The Human Resources Sub Committee is being asked to approve two separate documents:
- Managing Organisational Change, Policy, Procedure and Practice
- Redundancy Policy and Procedure

It is acknowledged that at this time a degree of overlap remains necessary as the two policies and procedures are inextricably linked. In time it would be sensible to integrate them into a single document however for the moment they are presented as two separate documents.

### Managing Organisational Change Policy, Procedure and Practice

This document primarily focuses primarily on implementing organisational structure change. It proposes procedural steps to ensure that employees are properly consulted on proposed changes and the procedures and tools for implementing change ensure that both the needs of the organisation and the contractual and statutory rights of employees are safeguarded.

Adoption and implementation of this proposal should enable the Authority to implement structural arrangements that:
- support the achievement of its strategic objectives
- enable it to retain appropriate skills and experience within the workforce
- provide fair and reasonable processes for employees to be appointed to posts in any revised structure
- deal fairly and reasonably with those employees who face dismissal on the grounds of redundancy
• minimise risk to the Authority and minimise adverse impacts of change on people

In discussing this document the Executive Committee asked for further consideration to be given to:

1. The proposed appeals process
2. The period proposed for pay protection
3. The proposal to offer a reduced lump sum as an alternative to pay protection

A response to these issues is set out below.

1. Appeals Process

The ACAS guidance on managing redundancy states, in relation to appeals:

“Management is also advised to consider the establishment of a redundancy appeals procedure to deal with complaints from Employees who feel that selection criteria have been unfairly applied in their case. This can be achieved by involving a more senior member of management or by setting up a committee of management and trade union or employee representatives, to consider individual grievances and any subsequent remedies. An advantage of such a procedure is that complaints about selection for redundancy may be resolved internally and thus reduce the likelihood of complaints to employment tribunals.”

An absence of an appeals process would lay the Authority open to successful claims for unfair dismissal. The question is as to where in the sequence of events any appeal should be made and considered by the employer.

The choice is whether to deal with it immediately after the selection for redundancy has been made or later in the process after notice of dismissal has been served but before the employee leaves the organisation. The ACAS guidance, above appears to favour appeals being heard immediately following selection for redundancy. The proposal in this document is that the appeal is heard immediately after the selection for redundancy has been made.

The reason for this is that at this stage the Authority, should it uphold the appeal, has the ability to take action to remedy the original decision. It should be clearly understood that if it upholds an appeal and overturns an employee’s selection for redundancy then someone else will be selected in their place. This of course could, in turn lead to a subsequent appeal from the subsequently aggrieved employee. It is proposed that it is sensible to exhaust this process before issuing notices of redundancy.

If appeals are held after notices of dismissal on the grounds of redundancy have been issued and then an appellant is successful then this notice would need to be withdrawn and a different employee selected. This would unnecessarily prolong the process as well as causing belated distress to an employee who had until then believed that they had been unaffected by the need to implement redundancies.
2. Period proposed for pay protection

The purpose of pay protection is to:

- afford the employee a period of time in which to adjust to the impact of receiving a lower level of pay and to consider how to plan and develop their future career.
- It also mitigates the impact of an, albeit defensible, breach of contract and thus encourage a displaced employee with skills the organisation wishes to retain to remain, albeit in a lower level post.

Where to pitch pay protection is essentially a matter of judgement in the context of affordability, organisational need to retain skills and experience and reasonableness towards employees.

Public sector practice, however by and large the range is to protect between one and three years. Anything greater than three years would be considered to start to veer towards the unreasonable in terms of financial prudence.

Of course the period of protection must be considered with the substantive nature of the protection. The general practice is to protect contractual pay elements and to apply national pay awards but not allow any further incremental progression.

A few public sector employers progressively reduce the level of pay protection from 100 per cent over the protection period. The revised proposal for BMKFA is to protect contractual pay for two years with no incremental progression and no application of national or local pay awards. This sits lower mid range of other public sector employers based on our knowledge of others.

3. The proposal to offer a reduced lump sum as an alternative to pay protection

This is not a widespread practice. The purpose of the proposal is to offer employees immediate access to a lump sum which may be useful in making arrangements to adjust to a lower level of pay and offering the Authority a reduced cost and greater administrative convenience. This is not critical to the pay protection proposals and has been deleted from the revised document.

Redundancy Policy and Procedure

In considering this document the Executive Committee asked for further thought to be given to:

1. The equality impact of the proposals
2. The appeals process
3. The payment of pay awards in respect of pay protection
4. A fixed redundancy payment which is greater than the statutory minimum but not uncapped actual individual salaries, that more closely reflects the Authority’s average salary

A response to these issues is set out below.
1. The equality impact of the proposals

An initial equality impact assessment has been carried out and outcomes covered in the Equality and Diversity section of this report. The equality impact of ‘capping’ redundancy payments is dealt with below.

2. The appeals process

This has been dealt with above under Managing Organisational Change Policy, Procedure and Practice above.

3. The payment of pay awards in respect of pay protection

This has been dealt with above under Managing Organisational Change Policy, Procedure and Practice above.

4. A fixed redundancy payment which is greater than the statutory minimum but not uncapped actual individual salaries, that more closely reflects the Authority’s average salary

The average salary in the Authority, will vary depending on which staff groups are included in the calculation. Based on the combined pay spine for operational wholetime firefighters, principal officers, other Directors and support staff, the sum is £740 per week.

The median, which removes the disproportionate impact on the average of either very high or very low salary values, is £630.

However since legislation does not permit enhanced redundancy payments to be made to firefighters these groups’ salary spinal column points should logically be excluded form the calculation. Using the salary spine for support staff and non-operational members of SMT the figures are:

- Average weekly pay = £625
- Median weekly pay = £517

Therefore in interpreting the Executive Committee’s views and examining the proposition for an enhanced capped redundancy payment calculator, “based on the average salary” a figure of £500 is being proposed as this is the nearest ‘round figure’ to the median.

The impact of an enhanced but capped weekly pay calculator of £500 would be that 50 of the most highly paid non-operational employees (LGPS eligible employees) would, if made redundant, receive redundancy payments calculated on less than their actual pay.

Of this 50, 27 (56 per cent) of the affected group are men and 21 (44 per cent) are women. The overall composition of the total LGPS eligible workforce is 40 per cent male and 60 per cent female.

On this basis this proposal could be seen to have a more adverse impact on male employees than female employees. On this basis an enhanced capped weekly pay calculator for redundancy payments purposes could be interpreted as indirectly discriminatory in gender terms.

In Cross and others v British Airways plc [2005] IRLR 423.
the EAT gave a summary of European case law concerning the justification of indirect sex discrimination through economic considerations. It also contrasted the position of a private company, which is entitled to rely on cost (not solely, but together with other relevant considerations) to justify a policy, with that of a public body which, under EU law, is not permitted to justify an otherwise discriminatory policy on grounds of cost.

A method to avoid potential claims for discrimination would be for members to choose to pay redundancy based on either actual weekly pay or the statutory maximum.

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<td>Annex B: Redundancy Policy and Procedures</td>
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<td>Annex C: Updated Moving Forward Change Programme timeline</td>
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<tr>
<th>REPORT ORIGINATOR AND CONTACT</th>
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<tbody>
<tr>
<td>Lynne Swift, Director Human Resources</td>
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<tr>
<td>01296744679</td>
</tr>
<tr>
<td><a href="mailto:lswift@bucksfire.gov.uk">lswift@bucksfire.gov.uk</a></td>
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1 Introduction - policy and principles

Buckinghamshire & Milton Keynes Fire Authority (the Authority) is committed to achieve its strategic objectives in as efficient and effective manner as possible. Therefore it understands that its organisational arrangements must be dynamic and the subject of continuous change and improvement. Such change can cause anxiety as well as opportunity for staff therefore the Authority is also committed to managing change in a manner that minimises such anxiety as far as is reasonably possible whilst ensuring the achievement of the strategic objectives.

Consequently the following principles will apply in the development and implementation of proposals for changes to organisational structure and working arrangements and practices.

The following key principles underpin this policy and procedure:

- The Authority’s organisational arrangements, including the duties and responsibilities of individual posts, must be dynamic in order to respond to the changing environment in which the Authority operates

- Organisational arrangements include structure; job duties and responsibilities; working practices, systems and processes and procedures

- The duties and responsibilities of posts can change to a reasonable degree in accordance with the needs of the organisation without varying the employment contractual rights and obligations

- Staff and the recognised trade unions will be encouraged to participate in and contribute to designing and implementing changes in organisational arrangements. The Authority has a duty to put in place organisational arrangements that are efficient and effective in enabling the achievement of its strategic objectives. The Authority will seek to minimise the impact of change on its staff, consistent with this duty

- The Authority will consult and communicate, at the earliest opportunity, and seek to reach agreement with its employees as individuals, in teams and through the recognised trade unions. However, the final decisions must rest with the Authority, the Chief Fire Officer/Chief Executive Officer and the Senior Management Team

- When line managers are consulting or communicating with individuals or teams on possible changes to organisational arrangements trade union representatives will not be attending in that capacity, unless there are specific proposals that potentially change the existing contractual rights of the employee(s) or there is the potential for redundancies

- Proposals for change that would alter an existing contractually binding collective agreement will be dealt with through the Authority’s formal joint negotiating machinery

- Trade union representatives and employees will be afforded reasonable time and facilities to discuss proposals for change

- For the avoidance of doubt this policy and procedure contains the Authority’s arrangements for the selection of staff for redundancy
• Any redundancy payments made to employees will comply with the statutory requirements and where these are exceeded the statutory minimum payment will be considered to be included in such enhanced payment

• If the Authority is unable to avoid reducing employee numbers it will try to minimise the effect of redundancies through the steps set out in this policy. In doing so the Authority will not discriminate directly or indirectly on grounds of gender, sexual orientation, marital or civil partner status, pregnancy and maternity gender reassignment, race, colour, nationality, ethnic or national origin, religion or belief, disability or age.

2 Scope

This policy and procedure and associated good practice advice applies to all staff employed by the Authority unless otherwise stated.

3 Provision of information

When the Authority is proposing change, as defined in this document it will as far as is reasonably possible consult with staff on the basis of an open agenda. It will seek ideas to address a particular problem or issue or may make initial proposals and seek reactions to these. During the process of developing proposals for change the Authority will, at the earliest opportunity, provide the following information:

(i) The nature of proposed changes and the reasons for them

(ii) The likely impact of the proposed changes on the structure and organisation of the service area affected

(iii) The details of any proposed changes to job descriptions and roles of individuals

(iv) Whether or not there are likely to be job losses and, if so, the estimated number

(v) A proposed timetable for the introduction of the organisational change including the key elements of consultation with staff and trades unions.

4 Statutory requirements

In addition to the basic principles above, it is recognised that there are statutory periods for consultation with the appropriate representatives of any affected employees where enforced job losses could result from proposals which are being contemplated by an employer.

In the event of 100 or more potential job losses, there is a 90 day minimum period and where there are 20 or more, there is a 30 day minimum period before any notice of termination on the grounds of redundancy can be issued. These statutory periods will be observed.

5 Minimising the adverse impact of organisational change

When organisational structure or other change that is likely to impact on job numbers is contemplated the Authority will consider what measures it can take to minimise the possibility of redundancies in the workforce. Whilst the Authority cannot give any guarantees on job continuity, it will consider implementing the following actions:
(i) A partial or complete freeze on recruitment

(ii) Seeking volunteers for redundancy from within the particular service area affected or a wider area of the organisation. The Authority, at its discretion, may offer special voluntary redundancy terms when seeking volunteers. In all cases the acceptance of a volunteer for redundancy will be a matter of the Authority’s discretion and it reserves the right not to offer voluntary redundancy terms or to refuse an application where it is in the interests of the Authority.

(iii) Reduction in the use of consultants and subcontractors

(iv) Reduction in overtime working

(v) Reduction in the employment of temporary and agency staff

(vi) Considering the introduction of short-time working, job-sharing or other flexible working arrangements, where these are practicable.

(vii) Identifying suitable alternative work

6 Consideration may also be given to introducing a process of ‘voluntary redeployment’ whereby a member of staff offers to be redeployed to another area of work to enable an ‘at risk’ employee to be redeployed into that post. Any such arrangement must be permissive and have the agreement of all the parties. In addition, an employee who volunteers for ‘voluntary redeployment’ will do so on a ‘without prejudice’ basis. The use of any of these measures will be assessed against the Authority’s need to have appropriately competent staff in post to enable it to achieve its strategic objectives.

7 Implementing organisation change

The following paragraphs set out how the Authority will implement organisational structure change following formal approval by the Authority, an Authority Committee or the Chief Fire Officer/Chief Executive Officer of the Authority.

Defining the status of posts in the old and new structures

i) Posts in the old structure will be defined as either:

   a. Continuing in the new structure - largely or wholly the same as a job in the new structure and where the grading of the new post is the same grade or one grade above or below of that of the old post.

   b. Deleted in the new structure – no longer required in the new structure or a lesser number of posts of the same type are no longer required in the new structure

ii) Posts in the new structure will be defined as either:

   a. Continuing from the old structure - largely or wholly the same as a job in the old structure and where the grading of the new post is the same grade or one grade above or below of that of the old post.

   b. New - substantially or wholly different to posts in the old structure in terms of purpose, duties and responsibilities and grade
8 The definition of post status will be undertaken using the process set out in Appendix 1 to this document.

9 **Notifying staff of their post status and the consequences**

   The impact of the above definitions on employees will be as follows:

   i) Postholders of continuing posts will have a contractual right to continue to occupy that post and an obligation to undertake the duties as specified under the new structure

   ii) Postholders of posts in the old structure which have been deleted and therefore do not exist in the new structure are, by this decision, selected as being potentially at risk of redundancy. They will be subject to procedure set out later in this document to determine whether or not they are appointed to any vacant, new or continuing suitable alternative posts in the new structure

10 Once the status of posts has been determined and approved by the Senior Management Team (SMT) in respect of the proposed changes to the structure each affected member of staff will be notified in writing by the Director of Human Resources of their provisional status as being at risk of redundancy. If restructuring proposals involve a reduction in the numbers of posts in SMT then the Chief Fire Officer/Chief Executive Officer (CFO/CEO) will be responsible for determining the status of posts, in conjunction with Executive Committee where appropriate, and notifying SMT members accordingly.

11 **Appeals against selection for redundancy**

   Any employee who has been notified that they are potentially at risk of redundancy will have the right to appeal against the decision selecting them for redundancy by writing, within seven calendar days of receiving the notification, to the Director of Human Resources (DoHR). Any appeal by an SMT member against post status should be made to the Chief Fire Officer/Chief Executive Officer, within seven calendar days of receiving the notification.

   Appeals will be heard by members of the Human Resources Sub-Committee sitting as an Appeal Panel to hear the appeal. This appeal against selection for redundancy and therefore any subsequent dismissal on the grounds of redundancy will be determined at this stage as it is the restructuring and post status definition that is the cause of the potential redundancy. Any appeal must be determined before any action has been taken to implement the new structure as once it has been implemented the Authority would have no remedy for an upheld appeal. The decision of the Appeal Panel will be the final decision within the Authority.

12 It is recognised that the upholding of an appeal may impact on the provisional status of other employees and that they in turn could then need to exercise their right of appeal. Once all appeals have been heard the DoHR, or CFO/CEO in the case of SMT members, will notify all affected employees of their confirmed position.

13 **Selection process for staff whose posts have been deleted in the new structure**

   Postholders whose posts in the old structure have been deleted will be given the first opportunity to be considered for selection into vacant posts in the new structure, in a process called ‘ring-fencing’. Ring-fences will be either tiered to match as closely as
possible the ‘at risk’ employees with posts of a similar level to their former posts or inclusive to all vacant posts in the new structure. The selection process for appointment to any of these vacant posts in the new structure will be broadly similar to the Authority’s normal selection processes. Therefore it will involve a range of selection tools including:

- written applications,
- interviews,
- psychometric tests and assessments,
- written exercises and group exercises etc.

14 Additionally any formally recorded information on previous conduct, performance and attendance that is also known to the employee concerned will be taken into account in reaching a decision on whether or not to appoint to a post or select the employee for redundancy. The affected employees will be notified of the particular techniques and information to be used for selection decisions in the ring-fencing process as this will also be the method for selecting staff that may ultimately be made redundant.

15 Staff in ring-fences will be invited to apply for specified posts and provided with the job description and person specification for the available posts and also informed of the tools to be used in the selection process. The employee will be asked to submit a written application for the post(s). All ring-fenced employees will be guaranteed an interview if they submit an application. However participation in a ring-fenced selection process does not guarantee the offer of an appointment; all appointments will be on merit as assessed against the requirements of the post.

16 **Staff who are appointed to posts through ring-fenced selection processes**

Staff who are offered and accept a post through the ring-fence selection process will be deemed to have accepted a suitable alternative. Accordingly they will be entitled to the statutory trial period. The submission of an application will be deemed as the employee agreeing that the post is suitable for them to occupy. The conditions set out in paragraph 17 v), vi) & vii) will apply to the operation of trial periods in posts offered and accepted through the ring fence selection process.

17 **Staff who are not appointed to posts through ring-fenced selection processes**

Staff who are still without a post at the conclusion of the ring-fenced selection process will remain at risk of redundancy and the Authority will seek to honour its employment law obligations to them through the following actions:

i) The employees concerned will be formally notified that they remain at risk of redundancy and given contractual or statutory notice, whichever is the greater, of termination of their employment on the grounds of redundancy. They will be considered to be in a notional ‘redemption pool’. During their time in the redeployment pool they will be expected to undertake any reasonable duties commensurate with their salary grade

ii) Any vacant posts will be assessed by the Director of Human Resources as to their suitability to provide suitable alternative employment to the employees at risk of redundancy. If a post is identified as being a suitable alternative for an employee at risk of redundancy the employees will be informed and invited to
apply for the post. This action will be taken before any other action is taken to fill these posts on a temporary or permanent.

iii) Any at risk employee who has been invited to and applies for a particular post will be invited to undergo a selection process. The selection process will be designed and implemented as set out in paragraphs 13 and 14 above.

Appointments to posts under this procedure will be based on merit as assessed against the requirements of the post. Participation in a selection process does not guarantee an offer of appointment; however the selection decision must take into account whether or not an employee could satisfactorily undertake the duties and responsibilities of the post with reasonable training support over a reasonable period of time.

iv) An employee is entitled to receive formal feedback as to why they were not successful in the process described at iii) above.

v) Employees who are appointed to a suitable and reasonable alternative post will have an entitlement to a trial period of four weeks in their new post. Within this period both the employee and management will have an opportunity to assess the employee’s suitability to carry out the job. If, at the end of this period, the employee or manager reasonably considers that the trial period has not been completed successfully, they have the right to return to the ‘notional redeployment pool’.

vi) In the event that the manager feels that the trial period was unsuccessful, the manager shall tell the employee the reasons for coming to this decision in writing. The employee will return to the ‘notional redeployment pool’.

vii) If however it is considered by the Authority that the employee has unreasonably rejected the post at the end of the trial period then the employee could forfeit their entitlement to a redundancy payment at the expiry of their notice. The trial period described above can be extended by the agreement of both sides but not beyond the expiry of the employees notice period.

viii) During the period of the employee’s notice when the Authority is seeking suitable alternative work for an employee under notice of termination on the grounds of redundancy a member of the HR Directorate will maintain regular contact with them to assist with their efforts to obtain a suitable alternative post. There is an equal emphasis placed on a member of staff to take part actively in the process to identify potential reasonable alternative employment.

18 Pay protection In the event of appointment to a suitable alternative post

A member of staff who has been appointed to a suitable alternative post with a lower level of salary will be entitled to a period of pay protection as set out in the following paragraphs. The purpose of pay protection is to afford the employee a period of time in which to adjust to receiving a lower level of pay and, to consider how to plan and develop their future career. The specific provisions are:

(i) Pay protection will be paid at the contractual spinal column point that the person was on at the time of their redeployment to a suitable alternative post or one grade above the substantive grade of the post to which the person has been appointed, whichever is the lower. Acting allowances, temporary promotions or honorarium payments will not be included in the protected level of pay and will
only be continue to be paid if there is a business requirement and a separate variation to contract in place. Payments relating to participation in any contractual rotas linked to the previous post will be included in the protected pay over and above the protected spinal column point.

(ii) This protected pay in (i) above will be frozen at this level for two years from the date of commencement in the suitable alternative post. There will be no incremental progression, or national or local pay awards. At the end of this period of protection, the rate of pay will become that for the post to which the person has been appointed. If the post grade is an incremental one then the employee will be placed, on the cessation of pay protection, on the equivalent incremental point to that which they would have enjoyed had their previous post not been deleted.

(iii) Any other protected contractual pay elements, other than the spinal column point, to which the employee was entitled in their previous post, will be paid calculated on the average level of payment over the 13 weeks prior to their commencement in the suitable alternative post. This sum will be paid as a monthly allowance in addition to the protected salary for a period of two years from the date of redeployment.

(iv) During a period of pay protection the employee will receive the terms and conditions appropriate to their former post. At the end of the period of pay protection the terms and conditions appropriate to their new post will apply. If an employee opts to receive a one-off payment then the terms and conditions of the new post will apply from the date they commence in the suitable alternative post. If an employee voluntarily applies for and accepts a different post during the period of pay protection then the protection will cease from the date they take up this post.

(v) Where the acceptance of a suitable alternative post involves a change in location the appropriate contractual, national or local conditions of service will apply to the costs of any net additional travelling from home to the base location.

19 Redundancy

If it has not been possible to offer a member of staff suitable alternative employment by the expiry of their statutory or contractual notice (or they reasonably refuse suitable alternative employment) then they will leave the Authority’s employment and be paid the appropriate redundancy payments. Staff will be expected to work through their period of notice unless it is felt by management that this would be inappropriate or impractical. In these situations the member of staff will be paid pay in lieu of notice. Redundancy payments and any early payment of pension benefits will be made in accordance with the employee’s contractual and statutory rights and the prevailing appropriate Authority policies in force at the time.

20 Counter notice

A member of staff who is given formal notice of redundancy may, if they wish, give the Authority ‘counter notice’ – that is notification of their intention to leave prior to the end date in the employer’s notice. Such ‘counter notice’ will not be unreasonably refused and will be without prejudice to the member of staff’s rights to receive a redundancy payment in accordance with the appropriate statutory provision.
21 **Rights to a redundancy payment**

A member of staff will lose the right to a redundancy payment in the event that they unreasonably refuse an offer of suitable alternative employment.

22 An unreasonable refusal is not defined in statute, but there is indicative case law that will help the Authority come to a view as to what is a reasonable or unreasonable refusal based on the particular circumstances.

23 As a general rule, offers of alternative employment which are on the same grade or which protect the earnings of the member of staff under the salary protection arrangements in this procedure and which are within the geographical boundaries of the Authority will be regarded as being suitable.

24 **Support to staff at risk of redundancy**

Staff who are at risk of redundancy may request advice and guidance from the Human Resource Directorate and the Training and Development Department on developing their skills for job search, making a job application and performing in selection processes. Staff who are under formal notice of dismissal on the grounds of redundancy may have reasonable time off (with pay subject to a maximum of 40 per cent of a week's pay) to attend external job interviews. The Authority may, at its discretion, offer additional outplacement support.

25 **Equality and Diversity Impact**

This policy and procedure and the criteria used to select those employees who will potentially be made redundant will be objective, transparent and fair and based on the skills required to meet the Authority’s existing and anticipated needs and thus both meets its obligations under employment law and supports the Authority’s equality and diversity objectives.
ORGANISATION RESTRUCTURING

Deciding whether the status of a post and thus the postholder in a revised organisation structure is unchanged or new

1 Introduction

The purpose of this Practice Note is to set out a methodology and procedure for deciding the status of posts and thus the impact on employees as a consequence of organisation structure change.

The categorisation of posts will determine:

- which employees, continue in post on their current contractual terms
- which employees are potentially redundant and for whom reasonable steps must be taken to attempt to identify suitable and reasonable alternative employment

Therefore this is an important decision which must be evidenced based and taken within a structured framework.

The note is written for use with the Decision Making Matrix attached at Annex 1.

2 Nature of the Decision

In implementing restructuring proposals the Authority needs to decide whether:

- A post in the new structure is entirely new because the functions/activities have not previously been undertaken within the authority; or

- A post in the new structure is entirely new because whilst the functions/activities are not in themselves new and feature in posts in the previous structure, their combination in this particular post is fundamentally different from any post in the previous structure and thus no existing employee could claim that the post is a continuation of their current contract; or

- A post in the new structure contains elements of the functions and activities of a post in the old structure, but there are additions and/or deletions of functions and thus the scale of change is such as to create a new post and thus no existing employee has any super ordinate contractual rights to the post; or

- A post in the new structure contains elements of the functions and activities of a post in the old structure, and whilst there are additions and/or deletions of functions the scale of change is such that the post remains unchanged in contractual terms and thus an existing employee has the right to remain in the post and the obligation to undertake the changed functions/activities; or

- A post in the new structure is entirely unchanged and thus the existing postholder has the contractual right to remain in the post.

The decision as to the status of a post in a restructuring is a balanced one and it is not a precise process. It does not hang on a single dimension of the post. A decision will need to be taken by the organisation in the light of its particular circumstances and knowledge of the duties and functions of its posts. It is important to review the
proposed duties, functions and responsibilities of each post in the revised structure, in comparison to the old structure objectively and consistently against objective criteria.

3. **The Decision Making Criteria**

The following are the dimensions of a post which provide the criteria that should be used to make the judgements described above.

- The primary overall purpose
- The main accountabilities and responsibilities
- The overall size - as assessed through budgets, people managed and assets controlled
- The salary or grade
- The competencies required to perform in the post
- Organisational reporting tier (status in the organisation)

4. **Making the Decisions**

The decision involves a comparison of the proposed old and new structures. The steps in this process are as follows:

(i) A job description and person specification must be prepared for each post in the new structure

(ii) The most recent job description and person specification for posts in the old structure must be available

(iii) The person making the assessment should identify any likely comparators in the old structure for each post in the new structure and then complete the matrix at Annex 1 for each comparison made. Therefore if there are three posts in the old structure which are likely comparators for a single post in the new structure then three matrices need to be completed

(iv) The assessor must make a judgement about how a post in the old structure compares to the likely comparator post(s) in the new structure in respect of the degree of difference for each of the dimensions of the post by ticking the appropriate box. The scoring scale caters for additions to and deletions from the post. A zero score is the no change position and the rankings can range from –5 to +5. Not all dimensions have the same weighting in the assessment and this is reflected by the shading on the matrix.

(v) Having completed the matrix the assessor must then determine the status of the post. This is not an arithmetical process. A majority of ticks in the amber shading will indicate the post is a deleted post as it is significantly different from the post in the old structure. A majority of ticks in the light blue areas indicates that the post is unchanged as it is not significantly different for the post in the new structure. Where a post in the old structure has more than one comparator in the new structure then any finding that the post is unchanged will be the definitive decision.
(vi) Having completed the assessments the assessor must annotate the establishment lists for the old and new structures accordingly. Posts in the old structure will be either unchanged or deleted. Unchanged posts will carry across to the new structure and therefore any other posts in the new structure will be, by definition, new posts.

(vii) Once completed the documentation for each post compared should be stapled together and passed to the Director of Human Resources with the annotated establishment lists.

Any questions on the implementation of this process should be addressed to the Director of Human Resources.
## ANNEXE 1 - POST STATUS DECISION MATRIX

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Redundancy Policy & Procedure

Policy Statement

Buckinghamshire & Milton Keynes Fire Authority (the Authority) aims to ensure the long term security of its employees to provide both the Authority and the employees with a secure working future. Where there is a need to reduce expenditure or reduce the volume of or cease particular activities the Authority will seek, with its employees, trade unions and staff representatives to minimise the effect through the provision of seeking suitable alternative employment for employees in potentially redundant posts. Where this is not possible, the Authority will consider redundancy. These matters will be dealt with through the following procedures.
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Procedures

Introduction

1. In response to changing business and Authority needs, occasions may arise where roles change or a reduction in the number of posts may result in potential redundancy situations. This document sets out the Authority’s redundancy policy and procedure. The policy sets out the process and procedure to be followed to effect fair and lawful redundancies. The procedures complement those set out in the Managing Change Principles, Policy and Procedures document. The Authority may choose to delegate the implementation of all or any part of this procedure to the Chief Fire Officer/Chief Executive Officer (CFO/CE).

Scope

2. The policy and procedures set out in this document apply to all employees of Buckinghamshire & Milton Keynes Fire Authority (the Authority), unless otherwise stated by reason of statute or particular terms and conditions of service.

Regulations

3. The Authority has a responsibility and statutory obligation to warn, and consult with, employees and trade unions at the earliest practical opportunity over any changes to roles or organisational structure that could lead to redundancies.

4. The Authority will, where possible, look for other suitable alternative opportunities within the organisation for employees who are put at risk of redundancy. Employees also have a responsibility to aid this process by also looking for and accepting alternative work where it is offered unless it would be unreasonable so to do.
Defining redundancy

5. Under the Employment Rights Act 1996, a redundancy situation exists where an employee who is dismissed shall be considered dismissed for redundancy if the dismissal is attributable wholly or mainly to the fact that:

(A) The employer has ceased, or intends to cease -
   1. to carry on the business for the purpose of which the employee was employed, or
   2. to carry on the business in the place where the employee was so employed; or

(B) The requirement of that business -
   1. for employers to carry out work of a particular kind, or
   2. for employees to carry out work of a particular kind in the place where he/she was so employed by the employer, have ceased or diminished, or are expected to cease or diminish.

6. For the purpose of the right to be consulted when an employer proposes to make 20 or more employees redundant in one establishment over 90 days or less, the law defines redundancy as a dismissal for a reason not related to the individual concerned or for a number of reasons all of which are not related.

Measures for minimising or avoiding redundancy

7. The Authority is responsible for deciding on the size and most efficient use of the workforce. The Authority may choose to delegate this responsibility to the Chief Fire Officer/Chief Executive Officer.

8. As part of the planning process management will seek to avoid or minimise any problem of employee surplus in cases where future reductions are known to be likely. The Chief Fire Officer/Chief Executive Officer will consider the following:
• achieving staffing reductions through natural wastage
• restricting the recruitment of permanent staff
• reducing the use of temporary staff without infringing employment rights
• reduction in hours – where agreed with the employee or allowed for in the contract of employment
• filling vacancies from among existing employees, offering alternative work within the organisation
• job share
• seeking applicants for early retirement, and voluntary redeployment of employees within the Authority

Consultation

9. The purpose of consultation is to provide as early an opportunity as practicable for all concerned to share the problem and explore the options. It can stimulate better cooperation between managers and employees, reduce uncertainty and lead to better decision making. There is a legal obligation, where there is a proposal to dismiss through redundancy, to consult with employees, the relevant trade unions and staff representatives of employees affected by the proposal or may be affected by measures taken in connection with the proposal. The employee(s) and/or their representative(s) may be able to suggest acceptable alternative ways of tackling the problem or ways of minimising any adverse impacts.

10. Where, following the exploration of redundancy avoidance measures, a potential redundancy situation will exist, the Chief Fire Officer/Chief Executive Officer will report to the Human Resource Sub-Committee on the potential need for redundancies. The report will:

• indicate the likely number and type of posts that may be surplus to the Authority’s requirements.
• indicate, based on the number of employees at risk of redundancy across the Authority, the amount of time required to consult.

11. Following approval by the Human Resource Sub-Committee of the
recommendations the Chief Fire Officer/Chief Executive Officer shall initiate the formal consultation process to:

- ensure that all consultation meetings, both group and individual, are convened by the appropriate officer of the Authority and that formal records of the proceedings shall be kept.
- ensure that a minimum of one individual meeting with each affected employee will take place prior to any dismissal.

12. The Authority is required under the Trade Union and Labour Relations (Consolidation) Act 1992, ("TULR(C)A") where proposing to make 20 or more employees redundant, to consult in good time with recognised trade unions about the potential redundancy situations, and to inform employees.

13. The Authority's timetable for consultation is as follows:

- at least 30 days before the process of implementing the individual redundancies (such as giving notices of dismissal) commences if 20 – 99 employees are to be made redundant over a period of 90 days.
- at least 90 days before the process of implementing the individual redundancies (such as giving notices of dismissal) commences if over 100 employees are to be made redundant over a period of 90 days.

14. There is no statutory set period for consultation laid down where redundancies involve less than 20 people. In these circumstances the Authority will apply the minimum period set out above for 20-99 employees i. e. 30 days.

15. The Chief Fire Officer/Chief Executive Officer will write to trade unions and staff representatives with the following information:

- reasons for the proposals
- the numbers and descriptions of employees whom it is proposed to dismiss as redundant
- the total number of employees of any such description employed at the establishment in question.
• the way in which employees will be selected for redundancy, including a description of the selection criteria to be used
• how the dismissals are to be carried out; including the period over which the dismissals are to take effect
• the method of calculating the amount of redundancy payments to be made to those who are dismissed

16. In addition to consulting trade unions, the Authority shall comply with any notification requirements under TULR(C)A to the Secretary of State at the Department for Business, Enterprise and Regulatory Reform

17. The object of the consultation process is to seek reach agreement with the trade unions. Any written proposals made by the trade unions will be considered and a written response will be given.

18. Employees on maternity or adoption leave, long term sickness absence, secondments and career breaks must be consulted and kept informed about the redundancy situation. It is automatically unfair dismissal to select an employee for redundancy on the grounds of taking maternity or adoption leave. An employee on maternity or adoption leave who is under notice of dismissal on the grounds of redundancy must be offered any suitable alternative vacancy available in preference to other employees. To fail to comply with this requirement would result in a finding of automatic unfair dismissal at an employment tribunal.

**Group consultation**

19. As the same time as the written notification is issued to trade unions, the appropriate Principal Officer or Director will inform employees of the situation and the date of the first group consultation meeting. Those invited should include all employees likely to be affected, the relevant trade union representative, and/or employee representative. The Director of Human Resources should be consulted, prior to the meeting, for advice. There may be a need to hold more than one group consultation meeting for employees on different conditions of service, working patterns or at different locations.
20. Once the Chief Fire Officer/Chief Executive Officer has provisionally identified the posts to be declared redundant, the postholder(s) will be individually notified in writing of the grounds on which the dismissal is being considered, and that they are at risk of redundancy. They will be notified of the right to make comments; to appeal and the right to be accompanied by a trade union/employee representative or work colleague at any meeting.

**Individual consultation meetings**

21. Individual consultation meetings will be held during the consultation process to discuss the individual’s personal circumstances and questions and to explain the process. At this stage, voluntary redundancy considerations and redeployment should be discussed. The employee has the right to be accompanied by a trade union / employee representative or work colleague at the meetings.

The consultation meeting will include:

- measures to try to avoid and/or reduce redundancy
- dates of any subsequent consultation meetings
- the reasons for the proposed reduction in posts
- budgetary information where the reason for the proposed staffing reduction is financial
- the procedure to be used
- criteria for selecting which employees in selection pools, are to be declared redundant
- the timescales

**Method and criteria for selection for redundancy**

22. In selecting for redundancy, the Chief Fire Officer/Chief Executive Officer shall ensure that any selection criteria used are fair and objective. The specific criteria and method of application will depend on the number of posts in any redundancy pool. The Chief Fire Officer/Chief Executive Officer shall identify the numbers and types of employees who are at risk of
redundancy. This will be determined by;

- the type of work that will cease or diminish
- the location(s), organisational area(s) and post(s) this will affect

23. Where there is more than one employee undertaking work of a similar type in a particular organisation and/or location they will form a pool from which a selection will need to be made.

24. The following are examples of selection criteria that may be applied; this list is indicative, not exhaustive:

- relevant skills, competencies, qualifications and work experience
- capability and performance
- attendance and absence
- conduct and disciplinary records
- length of service

25. In order to ensure objectivity, the selection process will normally involve interviews and/or other transparent assessment processes involving more than one manager and a formally recorded rating or scoring system. Where appropriate, selection criteria will be weighted.

26. The Authority will make all reasonable effort to ensure that data and information used in the selection process is accurate.

27. The actual selection criteria to be used, the weighting of criteria and the selection process will be discussed with trade unions and staff representatives with a view to reaching an agreement during the consultation process.

28. Where restructure results in potential redundancies but also creates new roles the method of implementation and selection for redundancy will be dealt with under the Authority’s policy and procedure for Managing Organisation Change which complements this document.
29. The overriding factor for selection is to retain employees who are most likely to contribute to the future success of the Authority.

Formal appeals against selection for redundancy

30. Any employee who has been notified that they are potentially at risk of redundancy will have the right to appeal against the decision selecting them for redundancy by writing, within seven calendar days of receiving the notification, to the Director of Human Resources (DoHR). Any appeal by an SMT member against post status should be made to the Chief Fire Officer/Chief Executive Officer, within seven calendar days of receiving the notification. Appeals will be heard by Members of the Human Resources Sub-Committee sitting as an Appeal Panel to hear the appeal.

This appeal against selection for redundancy and therefore any subsequent dismissal on the grounds of redundancy will be determined at this stage as it is the restructuring and post status definition that is the cause of the potential redundancy. Any appeal must be determined before any action has been taken to implement the new structure as once it has been implemented the Authority would have no remedy for an upheld appeal. The decision of the Appeal Panel will be the final decision within the Authority.

31. It is recognised that the upholding of an appeal may impact on the provisional status of other employees and that they in turn could then need to exercise their right of appeal. Once all appeals have been heard the DoHR, or CFO/CE in the case of SMT members, will notify all affected employees of their confirmed position.

Volunteers / early retirement for redundancy

32. One way in which to avoid compulsory redundancies is to ask for volunteers for redundancy/early retirement. The following will be taken into consideration when exploring this option:

- skills/experience required if the function is to continue effectively beyond a reorganisation without seeking volunteers
- additional costs incurred by allowing an employee to retire early
- the criteria for voluntary redundancies will be developed for selecting
volunteers based on the ongoing and future needs of the Authority.

33. Employees who express an interest will not adversely affect their position should selection for compulsory redundancy become necessary. It is entirely at the discretion of the Authority whether or not to accept an employee’s application for voluntary redundancy/early retirement

Dismissal on grounds of redundancy

34. Following the resolution of all appeals against selection for redundancy, those employees who remain at risk will be invited to attend a dismissal meeting (seven calendar days notice in writing will be given of the meeting). The employee will have a right to be accompanied by a work colleague or trade union /employee representative at this meeting.

35. The meeting will be convened by an appropriate officer of the Authority. At the meeting the employee will be given formal notice of dismissal on the grounds of redundancy and informed of the reasonable steps the Authority will take to seek alternative employment.

36. Employees will receive either contractual or statutory notice of termination of their contract, which ever is the greater (statutory notice equates to one week for each completed year of service with the Authority up to a maximum of twelve weeks). Employees with less than two years’ continuous service with the Authority and related employers are not entitled to a redundancy payment; however they are entitled appropriate notice.

37. If it has not been possible to offer a member of staff suitable alternative employment by the expiry of their statutory or contractual notice (or they reasonably refuse suitable alternative employment) then they will leave the Authority’s employment and be paid the appropriate redundancy payments. Staff will be expected to work through their period of notice unless it is felt by the Chief Fire Officer/ and Chief Executive Officer that this would be inappropriate or impractical; in such situations the member of staff will be given pay in lieu of notice.
38. Redundancy payments and, if and where applicable, any early payment of pension benefits will be made in accordance with the employee’s contractual and statutory rights and the prevailing appropriate Authority policies in force at the time.

Counter notice

39. Employees issued with redundancy notices may be allowed to leave their post earlier than the expiration of their notice period. Alternatively, employees may issue the employer with a written counter notice; that is notification of their intention to leave prior to the end date in the employer’s notice. Such counter notice will not be unreasonably refused and will be without prejudice to the employee’s rights to receive a redundancy payment in accordance with the terms of the redundancy scheme.

Measures to identify suitable alternative employment

40. Employees under notice of termination of employment on the grounds of redundancy will be considered to be in a notional ‘redeployment pool’. During their time in the redeployment pool they will be expected to undertake any reasonable duties commensurate with their salary grade.

41. Any vacant posts will be assessed by the Director of Human Resources as to their suitability to provide suitable alternative employment to the employees at risk of redundancy. If a post is identified as being a suitable alternative for an employee at risk of redundancy the employees will be informed and invited to apply for the post. This action will be taken before any other action is taken to fill these posts on a temporary or permanent.

42. Any employee who is at risk of redundancy and who has been invited to and applies for a particular post will be invited to a selection process. They must attend this selection process if they wish to be considered for appointment to the post in question. The selection process will be designed and implemented as set out above. Appointments to posts under this procedure will be based on merit as assessed against the requirements of the post.
Participation in a selection process does not guarantee an offer of appointment; however the selection decision must take into account whether or not an employee could satisfactorily undertake the duties and responsibilities of the post with reasonable training support over a reasonable period of time.

43. An employee may request feedback as to why they were not successful in any appointment process as described above.

**Trial Periods**

44. Employees who are appointed to a suitable and reasonable alternative post will have an entitlement to a trial period of four weeks in their new post. Within this period both the employee and management will have an opportunity to assess the employee's suitability to carry out the job. If, at the end of this period, the employee or manager reasonably considers that the trial period has not been completed successfully, they have the right to return to the 'notional redeployment pool'.

45. In the event that the manager feels that the trial period was unsuccessful, the manager shall tell the employee the reasons for coming to this decision in writing. The employee will return to the 'notional redeployment pool' until the expiry of their notice or they accept a suitable alternative post.

46. If however it is considered by the Authority that the employee has unreasonably rejected the post at the end of the trial period then the employee could forfeit their entitlement to a redundancy payment at the expiry of their notice.

47. The trial period described above can be extended to last for longer than four weeks only for the purposes of retraining the employee in the alternative employment\(^1\) by mutual agreement. Any agreement must be:

- in writing and finalised before the employee begins work under the new

\(^1\) section 138(3), Employment Rights Act 1996
contract.

- state the date on which the employee's retraining will finish.
- identify the terms of employment that will apply after the employee's retraining has finished.

48. During the period of the employee’s notice an appropriate member of the Human Resources Directorate will maintain regular contact with them to assist with their efforts to obtain a suitable alternative post. There is an equal responsibility on the member of staff to take part actively in the process to identify potential reasonable alternative employment.

**Pay protection in the event of appointment to a suitable alternative post**

49. A member of staff who has been appointed to a suitable alternative post with a lower level of salary will be entitled to a period of pay protection as set out in the following paragraphs. The purpose of pay protection is to afford the employee a period of time in which to adjust to receiving a lower level of pay and, to consider how to plan and develop their future career. The specific provisions are:

(i) Pay protection will be paid at the contractual spinal column point that the person was on at the time of their redeployment to a suitable alternative post, or one grade above the substantive grade of the post to which the person has been appointed, whichever is the lower. Acting allowances, temporary promotions or honorarium payments will not be included in the protected level of pay and will only be continue to be paid if there is a business requirement and a separate variation to contract in place. Payments relating to participation in any contractual rotas linked to the previous post will be included in the protected pay over and above the protected spinal column point.

(ii) This protected pay in (i) above will be frozen at this level for two years from the date of commencement in the suitable alternative post. There will be no incremental progression, or national or local pay awards. At the end of this period of protection, the rate of pay will become that for the post to which the person has been appointed. If the post grade is an incremental one then the employee will be placed, on the cessation of pay protection, on the
equivalent incremental point to that which they would have enjoyed had their previous post not been deleted

(iii) Any other protected contractual pay elements, other than the spinal column point, to which the employee was entitled in their previous post will be paid calculated on the average level of payment over the 13 weeks prior to their commencement in the suitable alternative post. This sum will be paid as a monthly allowance in addition to the protected salary for a period of 2 years from the date of redeployment.

(iv) During a period of pay protection the employee will receive the terms and conditions appropriate to their former post. At the end of the period of pay protection the terms and conditions appropriate to their new post will apply. If an employee opts to receive a one-off payment then the terms and conditions of the new post will apply from the date they commence in the suitable alternative post. If an employee voluntarily applies for and accepts a different post during the period of pay protection then the protection will cease from the date they take up this post.

(v) Where the acceptance of a suitable alternative post involves a change in location the appropriate contractual, national or local conditions of service will apply to the costs of any net additional travelling from home to the base location.

Rights to a redundancy payment

50. An employee with the appropriate qualifying service will receive a redundancy payment in accordance with statutory provision and the Authority’s polices. Any redundancy payment made by the Authority will incorporate the employee’s statutory redundancy payment entitlement.

51. A member of staff will lose the right to a redundancy payment in the event that they unreasonably refuse an offer of suitable alternative employment. An unreasonable refusal is not defined in statute; however there is indicative case law that will help the Authority come to a view as to what is a reasonable or unreasonable refusal.
52. As a general rule, offers of alternative employment which are on the same grade of their previous post or, if on a lower grade, which protect the earnings of the member of staff under the salary protection arrangements in this procedure and which are within the geographical boundaries of the Authority, will be regarded as being suitable by the Authority.

53. If, before the dismissal takes effect, the employee accepts an offer of employment from another body specified in Part II of Schedule 2 of the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999, the individual will lose entitlement to a redundancy payment.

54. This only applies where the relevant body makes the offer of a new job before the end of the old contract and the employment starts within the four weeks after the date of redundancy.

55. Receipt of redundancy pay will therefore be contingent on the employee confirming to the Chief Fire Officer/Chief Executive Officer that he or she will not be taking up any other employment covered by the Modification Order within four weeks after the date of redundancy.

Support to staff at risk of redundancy

56. Staff who are at risk of redundancy will receive reasonable advice and guidance from designated Human Resources and Training and Development team members on developing their skills for job search, making a job application and performing in selection processes. Staff who are under formal notice of dismissal on the grounds of redundancy may have reasonable time off (with pay subject to a maximum of 40 per cent of a week’s pay) to attend external job interviews. The Authority may, at its discretion, offer additional outplacement support.

57. An employee in this situation can also utilise the Employee Assistance Programme (EAP) for advice.
Equality and Diversity Impact

58. This policy and procedure and the criteria used to select those employees who will potentially be made redundant will be objective, transparent and fair and based on the skills required to meet the Authority’s existing and anticipated needs and thus both meets its obligations under employment law and supports the Authority’s equality and diversity objectives.

Document Control

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## Moving Forward – Restructuring Actions/Timescales

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<th>ACTIVITY</th>
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<tr>
<td>SMT agrees proposals to go to informal consultation with members</td>
<td>W/C 6 September 2010</td>
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<tr>
<td>Informal individual and representative consultation starts</td>
<td>30 September 2010</td>
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<tr>
<td>Executive Committee considers SMT proposals on structure, change management and redundancy policies and procedures</td>
<td>1 October 2010</td>
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<tr>
<td>Initial feedback to SMT</td>
<td>5 October 2010</td>
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<tr>
<td>HR Sub-Committee sign off change and redundancy policies and procedures</td>
<td>26 October 2010</td>
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<tr>
<td>Formal Consultation</td>
<td>28 October 2010 – for 1 month</td>
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<tr>
<td>Progress update to Executive Committee by SMT</td>
<td>10 November 2010</td>
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<tr>
<td>Feedback to Executive Committee by SMT on formal consultation. Final sign off</td>
<td>1 December 2010</td>
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<tr>
<td>Implementation activity commences</td>
<td>W/C 6 December 2010</td>
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<tr>
<td>Revised structure goes live</td>
<td>From mid January 2011</td>
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### Executive Summary

The lead members, via the Chairman of Buckinghamshire & Milton Keynes Fire Authority Councillor David Rowlands, commissioned Gillian Hibberd, Strategic Director (Resources and Business Transformation, Buckinghamshire County Council in 2010 to undertake a review of the recommendations contained in a report presented to the Human Resources Sub-Committee on 10 December 2009.

The report related to the pay and performance of the Buckinghamshire & Milton Keynes Fire Authority (BMKFA) principal officers.

In August 2010 the Chairman requested a review of progress made and to conclude the review.

The review has been concluded as far as possible and as a result Human Resources Sub-Committee members are asked to consider introducing a defined process for determining the appropriate levels of remuneration including pay awards for the senior officers within BMKFA, including principal officers.

A model process is attached in Annex A for Members’ consideration. A suggested timeline is included which aligns with the business planning process and financial year.

### Recommendations

1. That senior officer pay, including principal officers, is reviewed annually as recommended by the National Joint Council (NJC) for brigade managers (Gold terms and conditions)

2. That the attached model process (Annex A) for determining pay awards for senior officers including principal officers is introduced

3. That pay awards for senior officers ie salary level are based on an agreed formulae of relevant market comparisons and performance related criteria, for example average salary level of combined fire authorities and/or comparator posts across the public sector.

### Action

Decision
sector organisations, depending on whether the senior officer post is principal fire officer post or executive level support post

4 That a previous decision taken by HR Sub-Committee is confirmed i.e. that the initial pay and remuneration package for principal officers is dictated by the Executive Committee or delegated to the HR Sub-Committee at the point of engagement by utilising market rates and other measures.

| RISK MANAGEMENT | An initial risk assessment has highlighted the following risks:
| | Not providing market levels of pay presents two risks to BMKFA.
| | 1. If a vacancy arises it would be very difficult even in the current economic position to attract and appoint the right calibre individual to develop the authority and maintain its reputation.
| | 2. The existing principal officers are likely to be “headhunted” to work elsewhere.
| | Other identified risks are:
| | 3. Lack of a documented formal process for determining senior officers pay, including principal officers could in theory increase the risk of challenge to pay for equal value; however it is more likely to have impact on senior officer/principal officer goodwill.
| | 4. Current criticisms of senior executives pay across both private and public sectors appear to be influencing public opinion regarding pay restraint.
| | When members have approved a formal process for determining senior officers pay, a paper presenting recommendations regarding the senior officers’ pay will be presented to committee. The recommendations will be mindful of risks one to four and detail actions to mitigate these risks to the Authority.

| FINANCIAL IMPLICATIONS | Introducing a formal senior officer pay and remuneration review process in itself does not have financial implications.
| | However by agreeing to review annually as the NJC for brigade officers recommends, it is suggested that any budget increase that may be required will be allocated as part of the Medium Term Financial Plan (MTFP) to fund potential pay adjustments and any performance related honoraria.
| | Members should note that an annual review process in itself only commits the Authority to expenditure if it introduces standard formulae for guidance which specifies a declared market position.
| | If Members approve this approach, and any recommendations in subsequent reports, then there may be financial implications for this and future years. The impact of any increased costs and improved value for money will be presented to the Committee to allow Members to make
an informed decision on financial impacts of any recommendations.

Any financial investment in principal officers would be at least partially offset by continuity of employment, no one-off recruitment fees. If Members were looking to recruit a new principal officer then introducing this process would increase the Authority’s ability to attract the right calibre individuals for future vacancies.

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<tr>
<td>HEALTH AND SAFETY</td>
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<tr>
<td>EQUALITY AND DIVERSITY</td>
<td>An initial Equality Impact Assessment has highlighted that a lack of formal consistent approach to senior officer remuneration could expose the Authority to subjective decision-making open to challenge and issues of equal pay. External relevant surveys are being used to compare senior officer job evaluation and pay and remuneration. If the proposed process is approved, this will enhance transparency and accountability and reduce any risks of potential equal pay claims.</td>
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<td>USE OF RESOURCES</td>
<td>Introducing consistent process and procedures for determining pay and remuneration arrangements is considered best HR practice. BMKFA currently has a gap in its procedures relating to principal officers pay procedures potentially putting the Authority at risk. Any decision regarding actual pay levels will be costed and factored into the Authority’s MTFP.</td>
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| PROVENANCE SECTION & BACKGROUND PAPERS | Background  
In December 2009, the Chief Fire Officer and Chief Executive Designate CFO/CEO was commissioned by the lead members to produce proposals for the remuneration and reward of senior principal officers within BMKFA. Key to this request was the desire for the CFO/CEO and other executives to be suitably rewarded whilst allowing the authority the ability to scrutinise performance and link rewards to delivery of the Authority’s priorities.  
Two recommendations included in the December 2009 report, relating to the CFO/CEO base salary and introducing the NJC “Gold Book” Appraisal/Performance Management System (detailed in Annex C) to be utilised for the purposes of rewarding satisfactory or better performance against the Authority’s priorities, were deferred by members of the Human Resources Sub-Committee until advice from an independent Human Resources perspective was received.  
A third recommendation relating to pay and remuneration for each senior officers role being dictated by the HR Sub-Committee at the point of engagement by utilising market rates and other measures was approved is in place and recommended to continue.  
The NJC for Brigade Managers (Gold book terms and conditions) give guidance on determining pay levels as per Annex B and key elements have been used where applicable. |
appropriate to develop the recommended process.

There is currently no nationally agreed method for determining salary levels of CFOs and other principal officer posts. The NJC for Brigade Managers (Gold Book terms and conditions) currently publishes recommended minimum levels of pay only. It does offer guidance for fire authorities on how to determine pay levels and recommends that pay is reviewed annually. This guidance is referred to in Annex B of this report and has been taken into account in developing the recommended process for BMKFA.

Members are asked to consider adopting the model process for determining principal officers pay and remuneration.

With an agreed process in place, members will then have a consistent, defendable basis for considering and approving senior officers’ pay and benefits awards.

**ANNEXES**

Annex A: Senior Officers’ Remuneration Procedures - Model Process

Annex B: Gold book guidance on determining senior officer pay awards

Annex C: Gold book Appraisal/performance management system

**REPORT ORIGINATOR AND CONTACT**

Lynne Swift, Director Human Resources
01296 744679
lswift@bucksfire.gov.uk
Senior Officers’ Remuneration Procedure

Guiding Principles

1. The process will be fair, consistent and open to public scrutiny

2. Elected Members of Buckinghamshire & Milton Keynes Fire Authority (the Authority) will be responsible and accountable for their decisions ensuring value for money is delivered to the public and the Authority is capable of attracting and retaining the right calibre senior officers to continually improve value for money contribution

3. The Authority Human Resources Sub-Committee will establish and agree a clear and transparent methodology for determining senior officer pay and remuneration at appointment and on an ongoing regular basis.

4. An independent adviser will assist the Human Resources Sub-Committee on matters relating to senior officer pay, to ensure integrity

5. Equality and diversity will be integral to the process

6. The process will be subject to normal audit and governance arrangements

7. The process will support delivery of the Authority’s business priorities and in that respect will have links with the performance management system (appraisal), business planning budget cycles and medium term financial plans

8. The methodology for determining senior officer pay awards will include elements of market comparators, affordability, value for money for the public and an assessment of contribution.

9. The process will take into account any statutory or non-statutory guidance, circulars, collective agreements, or recommendations, including any recommendations or projected recommendations from the Hutton Review of Fair Pay in the Public Sector.
Process for 2010/11

Proposals relating to senior officer pay and performance reviews will form part of a separate paper at a Human Resources Sub-Committee to be arranged.

Current external data is showing that the most senior officer posts are behind the market as determined by the recommended formulae and it is proposed that members determine how to rectify at the HR Sub-Committee meeting.
Model process for determining senior officer pay awards - example using 2011-12 as a typical year

Senior officer targets and objectives are agreed and aligned with the business plan
By 1 April 2011

Survey external market data
June to September 2011

Quarterly review of senior officer progress against targets
July 2011

Senior officer half year performance review
November 2011

Analyze external data against salaries for BMKFA. Apply agreed formulae to senior officer salaries
By mid-October 2011

Prepare recommendations on salary awards for HR Sub-Committee. Include independent scrutiny of recommendations
End October 2011

HR Sub-Committee approve/amend recommendations
November 2011

Build HR Sub-Committee outcomes into MTFP
December 2011

Chairman / HR Director to implement salary review outcomes
End December 2011

Annual review of senior officer achievements against targets/objectives
By early March 2012

Report back to HR Sub-Committee including any recommendations for performance-related, one off non-pensionable honorarium payments
By end March 2012

(49)
Introduction

1. Both the employers and Brigade Managers recognize the importance of applying the appropriate skills and developing the competencies necessary to support and embed the cultural change inherent within these new terms and conditions.

Local salary structures

2. When determining the appropriate level of salaries for all brigade managers, the fire and rescue authority should refer to the relevant minimum salary of the Chief Fire Officer and the most relevant benchmark data.

3. Normally the fire and rescue authority will wish to begin by determining appropriate salary for their most senior manager.

4. When deciding how these posts should be remunerated the following factors are to be considered:

   a. The Chief Fire Officer's salary and that of any senior staff not covered by the Scheme of Conditions of Service (Gold Book);
   b. The relationship of current salary to the appropriate illustrative national benchmark;
   c. Any special market considerations;
   d. Any substantial local factors not common to fire and rescue authorities of similar type and size e.g. London weighting; complex local, regional or national responsibilities which bring added value;
   e. Comparative information to be supplied on request by the Joint Secretaries on salaries in other similar authorities;
   f. Top management structures and size of management team compared to those of other fire and rescue authorities of similar type and size; and
   g. The relative job size of each post, as objectively assessed through an appropriate job evaluation process or otherwise;
   h. Incident command responsibility and the requirement to provide operational cover within the employing authority and beyond.

The process for setting salary levels should include consideration of the following criteria:

- Minimum salary levels for Chief Officers in relevant sized local authorities
- Market rates of pay for senior managers in a range of private and public sector organisations
- Evidence of recruitment and/or retention difficulties with existing minimum rates

There are a range of schemes and approaches available for authorities to use in assessing job size. To assist authorities, advice can be obtained from the Employers' Side Secretary of the NJC.
Workforce planning

5. Fire and rescue authorities should be regularly reviewing their future requirements for employees at all levels, implications for the organisational structure, including availability to cover operational needs and cross authority resilience requirements.

In determining the appropriate structure, Authorities need to be mindful of the potential for Brigade Managers to be absent for extended periods in the event of major civil disruption and the impact this will have on the organisation as a whole, and more specifically, on the remaining corporate team. Authorities are reminded of the requirement to consult on any proposed changes. In addition, there may be a need to negotiate on some issues that may emerge from the consultation process e.g. a change to terms and conditions of employment.

6. Where the changes to the organisational structure will lead to increases in the staffing complement, the authority will need to consider what the relevant grades will be and how best to recruit to the new posts in accordance with the Fairness and Dignity at Work policy.

Where the changes to the organisational structure will lead to a reduction in the staffing complement, authorities should, as far as is practicable, achieve these through natural wastage, the use of temporary appointments or other arrangements to avoid the necessity of making individuals redundant.

7. However, where this is not possible the fire and rescue authority should first seek volunteers for redundancy, where appropriate.

8. Where a Brigade Manager is moved from a higher graded/paid job to a lower graded/paid job, except by virtue of discipline or capability, the fire and rescue authority is recommended to put in place arrangements for pay protection taking into account:
   a. Other pay protection and redundancy arrangements for employees of the fire and rescue authority
   b. Equal Opportunities Commission advice on pay protection and redundancy – protection arrangements can be discriminatory in certain circumstances
   c. Any other local policies and issues
   d. Pay protection and redundancy arrangements in other similar organisations

9. Where a Brigade Manager requests to move to a lower graded/paid post then they will receive the pay and conditions applicable to that post and protection arrangements will not apply.
ANNEX C

Guidance on the appraisal of Brigade Managers

Introduction

1. This document has been developed by the Joint Secretaries to assist local Fire and Rescue Services when implementing a performance appraisal system for managers whose conditions of service relate to the NJC for Brigade Managers. In this context it should be read in conjunction with the paragraphs relating to performance appraisal in the conditions of service (See paragraphs 30 to 32).

2. This guidance is intended for use by a Brigade Manager and where applicable nominated elected members representing the Authority to which the manager reports. The focus of this process should be on clarifying what Brigade Managers are expected to achieve and on identifying any continuing personal development needs which, if met, would maintain a high level of performance. The process of setting objectives should be by agreement and the result should be to identify objectives which are relevant and challenging but achievable.

3. The process should not become complex. At all times it needs to focus clearly on a few basic issues: what the Brigade Manager's job is; what has been done well; what could have been done better; the major issues over the next year; and what development needs the process identifies.

Responsibility for Appraisal

4. The responsibility for appraising a Brigade Manager lies with their line manager and as appropriate by (an) Authority number(s) representing the Fire and Rescue Authority.

The Purpose of the Appraisal

5. To identify and clarify the key objectives, priorities and targets of the Service with specific reference to the Brigade Manager's area of responsibility, over the next (twelve) months.

6. Agree what the Brigade Manager should personally achieve over the next (twelve) months and identify standards of performance, in order to deliver the Service's key objectives, priorities and targets. These targets should be realistic and achievable in the light of available resources and time. Standards of performance should be expressed in ways that can be monitored objectively. The parties should identify the resource implications of the agreed objectives.

7. Discuss positive achievements over the past (twelve) months and identify reasons for good performance.

8. Discuss instances over the past (twelve) months where targets have not been met, jointly identifying factors preventing the achievement of agreed goals.

9. Discuss development requirements. The parties should identify and where necessary provide the professional development necessary to equip him or her with the requisite skills to meet the Service's objectives. The parties should be proactive and anticipate future development needs in the context of the Service's changing priorities. This discussion may lead to agreement on changes to the working relationship between the line manager, elected members and the appraisee. It should not be assumed that
it is only the Brigade Manager who may need to adjust his/her approach to the working relationship.

Appraisal and the Service’s Forward Plan

10. Appraisal should be set in the context of the Service’s objectives, priorities and targets, generally expressed in the forward plan or equivalent. Appraisal targets when taken as a whole should be related to agreed targets for the Service as a whole.

The Appraisal Cycle

11. Appraisal should take place on a predetermined date, at least annually, backed up by monitoring meetings on a regular basis at which targets can be reviewed for continuing relevance. A formal system of appraisal should not prevent continuous discussion regarding progress and performance.

The key elements of the appraisal process are:
1. Continuous two way monitoring of performance against objectives
2. Preparation for an appraisal interview
3. An appraisal interview where recent and current performance, future objectives and development needs are discussed
4. Agreement should be reached on action required from either party to ensure required performance is achievable.
5. The process of informal discussion regarding performance should continue

The Appraisal Interview and Afterwards

12. Key elements of the appraisal interview process and afterwards are:

1. All parties should be well informed and prepared for the interview.
2. The process should be two way.
3. The interview should be free from interruptions and notes taken when necessary.
   An agreed written record of key points should be produced at the conclusion of the process.
4. The parties should concentrate as far as possible on established facts rather than unsubstantiated opinions.
5. Targets should be agreed which are achievable and realistic in the light of available resources including time, and are capable of being monitored.
6. Any agreed development plans should be implemented within agreed timescales.
   The support and resources, including time, necessary to meet targets should be identified.
7. The Brigade Manager should be given a reasonable opportunity to correct any shortfalls in performance.
8. A date for the next review should be agreed.

External Assistance

13. External assistance in facilitating the appraisal process can be helpful in providing an independent perspective. Within the Fire and Rescue Service family, it may be sought from:

   • The Employer’s Secretary at the Local Government Employers
   • The Staff Side Secretary at APFC, 10-11 Pebble Close, Amington, Tamworth, Staffordshire B77 4RD

Such assistance may take the form of suggesting the names of recently retired Brigade Managers or other independent people. A fee may be requested to cover staff time.
Alternatively such assistance may be available from commercial services such as consultancy firms.

Other Matters

14. The content of appraisal interviews should be treated as confidential to the participants. However, it may be useful to report to an appropriate committee meeting that an appraisal interview has taken place.

15. This would not preclude the use of such information in other confidential proceedings.