

**ASSIMILATION, REDEPLOYMENT AND REDUNDANCY PROCEDURE FOR JNC
CHIEF OFFICERS FOR PROPOSED SENIOR MANAGEMENT RESTRUCTURES
15 JANUARY 2013**

SECTION 1: SCOPE & APPLICATION

- 1.1 This Agreement is between the City of Bradford Metropolitan District Council (“the Council”) and the recognised Trade Unions (being Unison and GMB) representing those employees of the Council who come under the scope of the Joint Negotiating Committee (JNC) for Chief Officers of Local Authorities.
- 1.2 This Agreement will apply to all employees who come under the scope of the Joint Negotiating Committee (JNC) for Chief Officers of Local Authorities and currently employed as Strategic Director, Director, Deputy Director, City Solicitor and Assistant Director (hereinafter called “Chief Officers”).
- 1.3 This Agreement will commence on 15 January 2013 subject to the provisions of clauses 1.4 -1.6 below.
- 1.4 Either party may give the other party three months written notice of termination of this Agreement. If either party gives notice of termination, both parties will work together to attempt to reach a new Agreement before expiry of the three month notice period.
- 1.5 On termination of this Agreement by either party, the terms of this Agreement will cease to have contractual application for employees covered by this Agreement as detailed in paragraph 1.1.
- 1.6 If notice is given by either party, in accordance with clause 1.4 above, any redeployment during the notice period of this Agreement will be in accordance with the terms of this Agreement (save in exceptional circumstances to be agreed between the Council and the recognised Trade Unions)

SECTION 2: PROCESS

- 2.1 Chief Officers’ terms and conditions require the Council to consult with any Chief Officer at the earliest possible stage when there is a suggestion that the Chief Officer’s post might be abolished or proposed for abolition.
- 2.2 If a proposal is formulated to abolish a Chief Officer’s post, the statutory consultation process under Section 188 Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) should be followed with the recognised Trade Unions.
- 2.3 The required statutory information under Section 188 TULRCA 1992 should be sent to the Chief Officer and to each independent trade union recognised by the Council for collective bargaining purposes for the Chief Officer (being Unison and GMB).
- 2.4 A period of not less than 30 days is required for the statutory consultation process.

- 2.5 The Chief Officer and a Trade Union representative will be afforded an opportunity of making oral representations to Executive, before a final decision is made about their post, if it is proposed that their post be abolished.
- 2.6 If, following such consultations, the Council decide that the post(s) must be abolished, the Chief Officer should be offered any suitable alternative employment which may be available or which may become available in consequence of the reorganisation giving rise to the abolition of the Chief Officer's post.

The Assimilation Procedure

- 2.7 The following procedure will only apply to a Chief Officer whose post is proposed for abolition or where it is proposed that a Chief Officer's existing responsibilities for functions/services will change.
- 2.8 Following consultation with Chief Officers and the Trade Unions and if the proposed structure is approved with or without amendments by Executive the assimilation procedure as set out below will be followed.
- 2.9 The first stage of the assimilation procedure will be an assessment by the Assimilation Panel (see paragraphs 2.11 and 2.12 below) as to whether any of the Chief Officers in existing posts proposed for abolition or where it is proposed that the Chief Officer's existing responsibilities for functions/services will change should be assimilated into any new/revised posts in the new structure as suitable alternative employment. The assimilation rights of Chief Officers affected will need to be based upon:
- (i) a comparison of the duties and responsibilities of any new/revised post in the new structure which includes posts where there has been a change in responsibilities for functions/services compared to those of each Chief Officer in their existing post (ignoring any temporary promotion or acting responsibilities).
 - (ii) determining competing claims to each new/revised post in the new structure between different Chief Officers when more than one can demonstrate a significant similarity of duties and responsibilities;
 - (iii) ensuring that Chief Officers can only be directly assimilated into posts that they can be regarded as being capable of undertaking on the basis of previous duties and responsibilities in their post in the previous structure.
- 2.10 The comparison of duties and responsibilities of the new/revised posts in the new structure which includes posts where there has been a change in responsibilities for functions/services to current Chief Officers in their existing posts should be based upon a significant proportion of duties and responsibilities listed in the new job profile being the same as those in the Chief Officer's existing post using the assimilation categories detailed in Appendix A of this Agreement.
- 2.11 The Assimilation Panel will consist of the Chief Executive and a representative from Human Resources and the Regional Officers of the GMB and Unison or their nominated substitutes. The quorum of the Assimilation Panel will be 3 namely the Chief Executive, HR representative and one regional Trade Union

representative or their nominated substitute.

The Assimilation Panel will assign to all new/revised posts which includes posts where there has been a change of responsibilities for functions/services in the new structure an Assimilation Category of A, B or C (see Appendix A). Management will make their proposals on Assimilation Categories and allow the trade union representatives to comment. Both sides should seek to agree the categories.

Assimilation of Strategic Directors and Statutory Chief Officers (Section 151 Officer and Monitoring Officer) where applicable

- 2.12 The Assimilation Panel referred to in paragraph 2.11 will consider the Strategic Directors and Statutory Chief Officers (if any) first and will consider the assimilation rights for each such Chief Officer and make recommendations to a Sub-Committee of Staffing Committee (the Assimilation and Appointment Panel).
- 2.13 The Assimilation and Appointment Panel will determine the assimilation rights taking into account the recommendations of the Assimilation Panel. Chief Officers must be advised of the assimilation decisions of the Members' Assimilation and Appointment Panel and given the right of appeal.
- 2.14 An appeal against the assimilation category will be to the Council's Employee Appeals Panel, whose decision shall be final.
- 2.15 Any appointments of Strategic Directors and Statutory Chief Officers will be made by either Staffing Committee or a Sub-Committee of Staffing Committee.

Assimilation of all other Chief Officers

- 2.16 The determination of the assimilation rights for all other Chief Officers (namely Director, Deputy Director and Assistant Directors where applicable) will be made by the Assimilation Panel referred to in paragraph 2.11. Chief Officers must be advised of the assimilation decisions of the Assimilation Panel and given the right of appeal.
- 2.17 An appeal against the assimilation category will be to a Panel consisting of the Director of the Regional Local Government Employers' Organisation (or nominated substitute) a nominated Strategic Director and a representative of HR, whose decision shall be final.
- 2.18 When assimilation categories have been assigned, the following should then take place (all in accordance with Appendix A):-

Direct Assimilations: Inform those assimilated.

Limited Competition Selection Processes: Arrangements will be put in place as soon as practicable for "limited competition selection" processes to be undertaken.

Category C Posts: Identify any Category C posts available. Should any post at Strategic Director level in the new structure be categorised as Category C, only current Strategic Directors can apply for the position.

In relation to any other Category C post, notify all Chief Officers of their existence and the role requirements. Any Chief Officer at risk of redundancy following the previous steps in the assimilation process will be entitled to apply for such posts should s/he wish to do so.

However, in the event that there is more than one candidate for any Category C post then arrangements will be put in place as soon as practicable for "limited competition selection" process to be undertaken to assess their suitability for the post.

Confirmation of Assimilation: The appropriate steps will be taken as soon as possible thereafter to notify those assimilated (but see paragraph 2.15 above) and arrange for them to receive revised contracts of employment.

- 2.19 The Council will ensure that all decisions comply with the Council's employment policies and with employment legislation.
- 2.20 As there are less posts on the proposed new structure, the Council will throughout the consultation process, advise the Chief Officers and the appropriate Trade Unions of any vacancies which arise elsewhere within the Council and which may be considered suitable alternative employment for Chief Officers. Chief Officers can of course apply for any other vacant post within the Council.
- 2.21 The Council will continue to assist the Chief Officer with seeking alternative employment within the Council throughout the assimilation process.
- 2.22 In the event of the Chief Officer being redeployed/appointed to a post which is graded at a lower level than the current post of the Chief Officer the following pay protection will apply, excluding increments and relevant national pay awards and see paragraph 2.23 below:
 - a) In year one full pay protection of the difference in salary, but with a maximum amount of pay protection of £4,000 per annum
 - b) In year two 50% of the difference in salary, but with a maximum amount of pay protection of £2,000 per annum
- 2.23 Irrespective of the grade of the post to which the Chief Officer is redeployed, the following conditions if applicable will not be protected from the date the Chief Officer is redeployed:

Any payment/benefit received in addition to normal salary. The following is a non exhaustive list of examples:-

- (a) honoraria/plusages
- (b) professional subscription
- (c) telephone allowance

- (d) /car leasing allowance
- (e) car allowance status

Except in so far as they apply to any new/revised post to which they are assimilated/redeployed.

- 2.24 Once it is confirmed that the Chief Officer has not been selected for any new/revised post in the new structure, arrangements will be made to convene Staffing Committee or a Sub-Committee of Staffing Committee to consider whether the Chief Officer should be dismissed on the grounds of redundancy. The Chief Officer will have the right to make representations to this Committee with the support of his/her trade union representative (if any) before a final decision is arrived at.
- 2.25 Should the decision be to dismiss the Chief Officer on the grounds of redundancy, the Chief Officer will receive 3 months' notice during which efforts will continue to seek redeployment opportunities within the Council for the Chief Officer. Chief Officers with over 4 years' continuous service at the date of the decision of Staffing Committee will be entitled to an additional 4 weeks period to continue to seek redeployment opportunities within the Council over and above their contractual 3 months' notice.
- 2.26 The Chief Officer has a right of appeal against the decision to dismiss and this right can be exercised by writing to the Chief Executive setting out the grounds of appeal within 5 working days of the date of the letter confirming the decision to dismiss.
- 2.27 An Appeal will be heard by the Council's Employee Appeals Panel.

ASSIMILATION CATEGORIES

NB Chief Officers can only be considered for assimilation rights at A and B level within the new structure based on their existing level/status in the previous structure i.e. Strategic Directors cannot be considered for assimilation rights at Assistant Director 'level' and vice versa.

1. Category A

The post is considered to be **directly** similar in tasks, duties and responsibilities to a post(s) in the previous structure. The grade and reporting relationship may be different, but it is obvious that a post holder(s) can be identified as being available for assimilation to the post(s) on the basis of the key tasks, duties and responsibilities of their former/existing post(s).

If there is only one Chief Officer identified as available for assimilation that Chief Officer should be directly assimilated (slotted in) to the Category A post in the new structure. For Strategic Directors and Statutory Chief Officers, the Assimilation and Appointment Panel will formally appoint if Category A. For all other posts, the Chief Executive will appoint if Category A.

Where there are more Chief Officers available for assimilation than posts (in Category A) in the structure then a "limited competition selection" process will apply (as between the identified candidates for the role).

2 Category B

The post(s) are considered to have significant elements of the tasks, duties and responsibilities to a post(s) in the previous structure, though the grade and the reporting relationship may be different. There may be one or more Chief Officers who can be identified as being available for assimilation to this post(s). Such Chief Officers will be identified through the comparison of their existing substantive post with the criteria specified at paragraphs 2.9 and 2.10 of this Agreement.

Where only one Chief Officer is identified as being available on the basis of his/her key tasks, duties and responsibilities of a former/existing post, then this Chief Officer should undergo a selection process to assess their suitability for the post.

Where more than one Chief Officer can be identified as performing part of the constituent tasks/duties and responsibilities, then "limited competition selection" should take place (as between the identified candidates for the role). If none of the Chief Officers satisfy the requirements of the selection process then no appointment should be made.

Where no Chief Officer is appointed, this post becomes open for recruitment as with any other vacant post.

3 **Category C**

The post has been created to reflect a new direction or function.

Identify any Category C posts available. Should any post at Strategic Director level in the new structure be categorised as Category C, only current Strategic Directors can apply for the position.

In relation to any other Category C post, notify all Chief Officers of their existence and the role requirements. Any Chief Officer at risk of redundancy following the previous steps in the assimilation process will be entitled to apply for such posts should s/he wish to do so.

However, in the event that there is more than one candidate for any Category C post then arrangements will be put in place as soon as practicable for “limited competition selection” process to be undertaken to assess their suitability for the post.

Where there is only one candidate for any Category C post then the candidate should undergo a selection process to assess their suitability for the post.

If none of the candidates satisfy the requirements of the selection process then no appointment should be made.

If no appointment is made the post is open for recruitment as with any other vacant post.