

# Medway Council

## Redeployment Procedure

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## **1.0 Introduction**

- 1.1 Medway Council aims to avoid redundancies wherever possible. Where this cannot be achieved, the Council will support employees whose roles are at risk to identify and secure suitable alternative employment through redeployment.
- 1.2 Employees may, at times, be unable to continue in their current role but remain capable of undertaking a different role within the Council. Where appropriate, in these non-redundancy situations the Council will strive to find an alternative role for these employees.
- 1.3 This procedure explains:
  - who may be considered for redeployment;
  - how the redeployment process works; and
  - the responsibilities of employees, managers and HR.

## **2.0 Scope**

- 2.1 This procedure applies to all employees of the Council. However, some school-based staff have different arrangements for seeking alternative employment. These staff members should seek advice from the Human Resources (Schools) Team for clarification on their specific arrangements.

## **3.0 Equality Statement**

- 3.1 The Council is committed to ensuring that no service user, employee, job applicant, those with care experience, partner, contractor, supplier or member of the public will be unlawfully discriminated, harassed or victimised on the grounds of race; ethnicity; nationality; ethnic or national origin; colour; disability; gender reassignment status; marital or civil partnership status; maternity or pregnancy; family and caring responsibilities; sex; sexual orientation; age; HIV status; religion or belief; political beliefs; social class; trades union activity; carer or cared-for status; or irrelevant spent convictions.

## **4.0 Core Values and Council Objectives**

- 4.1 This policy supports the Council's Our Values and Behaviours. The Council believes that a consistent approach to employee management and wellbeing is fundamental to the delivery of quality services, one of the aims of the policy is to support this belief.

## **5.0 Principles**

- 5.1 The Council must give redeployees priority over other candidates when filling suitable vacancies.
- 5.2 Redeployment takes precedence over normal recruitment wherever possible.
- 5.3 The Council aims to:
  - retain employees wherever possible;
  - apply redeployment fairly and consistently;

- provide appropriate support to affected employees; and
- meet its legal obligations, including the duty to identify “suitable alternative employment” in redundancy cases.

5.4 Redeployment must not be used as an alternative to managing performance or conduct.

5.5 Redeployed employees will normally be offered a 4-week trial period (see section 11.0). This is the legal standard for redundancy situations, however the Council will apply this to all redeployees.

## **6.0 HR Responsibilities**

6.1 It is the responsibility of the Human Resources Employee Relations (ER) Team to provide overall guidance and advice, as required, in the implementation of this procedure and to monitor consistency of application of the principles. Human Resources Business Partners (HRBPs) and ER Consultants will work with the Recruitment Team to ensure processes operate effectively.

6.2 The ER Team and/or HRBPs will work with managers to support a smooth redeployment process. Managers are expected to proactively engage with this process positively.

## **7.0 Who Can Be Considered for Redeployment?**

7.1 A redeployee is an employee whose employment in their current role is coming to an end or who can no longer remain in their role on medical grounds. This may be due to one of the following reasons:

- Employees facing redundancy after completion of a formal consultation;
- A fixed-term contract (FTC) coming to an end resulting in redundancy;
- An expiry of funding or statutory change resulting in redundancy;
- The individual can no longer do their current role because of a disability (under the Equality Act 2010), a long-term health condition or on other medical grounds and redeployment is recommended following the outcome of a formal Occupational Health referral (see appendix B);
- Return from a career break where the employee’s old role is no longer available.

7.2 Employees at risk of dismissal on the grounds of redundancy will receive priority above any other category of redeployee on the redeployment register.

## **8.0 Priorities for Redeployment**

8.1 The Council will apply the following order of priority when considering suitable alternative vacancies under this procedure. In redundancy situations, statutory priority will apply where required by law.

8.2 **First Priority: employees at risk of redundancy**

- 8.2.1 In a redundancy situation, the highest priority will be given to employees who are entitled to statutory redundancy protection for suitable alternative vacancies. First consideration will be given to those employees at risk of redundancy who are:
- pregnant;
  - on maternity leave;
  - on adoption leave;
  - on shared parental leave;
  - on neonatal care leave; or
  - on bereaved partner's paternity leave, where the relevant statutory protected period applies.
- 8.2.2 For employees who are pregnant, the protected period begins when the employee notifies the Council of their pregnancy. It normally ends 18 months from the date of birth. If the employee does not notify the Council of the date of birth, the protected period will usually end 18 months from the expected week of childbirth. Where a pregnancy ends in miscarriage within the first 24 weeks, the protected period ends 2 weeks after the end of the pregnancy. Where a child is stillborn after 24 weeks, the protected period normally ends 18 months from the date of birth.
- 8.2.3 For maternity leave, adoption leave, shared parental leave, neonatal care leave and bereaved partner's paternity leave, the duration of the protected period will be determined in accordance with the relevant statutory rules in force at the time. Where more than one protected category could apply, the Council will apply the category that gives the employee the correct legal protection in the circumstances.
- 8.2.4 All other staff identified as at risk of redundancy will then be considered, following those falling into the above categories.
- 8.3 **Second priority – disability-related redeployment**
- 8.3.1 The next priority will be employees who are disabled within the meaning of the Equality Act 2010, or who have a qualifying health condition, where redeployment is being considered as a reasonable adjustment because they can no longer remain in their current role or workplace arrangement without substantial disadvantage.
- 8.3.2 In these cases, the Council will consider redeployment alongside other reasonable adjustments that may enable the employee to remain in work.
- 8.4 **Third Priority – all other redeployees**
- 8.4.1 All other employees eligible under section 7.0 will be considered after the categories set out above.
- 8.5 Where more than one employee has the same level of priority for a vacancy, the Council will assess suitability by reference to the requirements of the role, the employee's skills, experience, qualifications, any necessary adjustments, and any relevant operational considerations. The Council will document the reasons for its decision.

8.6 In exceptional circumstances, an employee who is under capability for their current role may be considered for redeployment. This must only be done with guidance and approval from an ER Consultant.

## **9.0 The Redeployment Register**

9.1 HR will maintain a Redeployment Register of employees eligible for redeployment under this procedure.

9.2 An employee will normally be placed on the Register when:

- they are formally notified that they are at risk of redundancy;
- redeployment is identified as a potential option following medical or Occupational Health advice; or
- when appropriate under the other circumstances set out in Section 7.

9.3 Being on the Register does not guarantee redeployment. It allows the Council to consider suitable vacancies fairly and consistently.

9.4 Employees must complete an Employee Profile Form (Appendix A). Employees are responsible for keeping this information accurate and up to date. The ER Team is responsible for redacting sensitive information from the form before it is shared with Recruitment or the hiring manager.

9.5 HR and the Recruitment Team will use the information on the Redeployment Register and Employee Profile Form to identify potentially suitable vacancies and support matching decisions. In disability-related cases, the Council will also consider whether reasonable adjustments, retraining, altered duties, different working arrangements or other support would enable the employee to undertake a vacancy.

9.6 Employees will be notified in writing when they are placed on the Redeployment Register. The notification will explain:

- the reason they have been placed on the Register;
- the support available to them;
- the employee's responsibilities to engage with the process;
- the possible consequences of unreasonably refusing suitable alternative employment;
- the review arrangements that apply under this procedure; and
- the notice provisions for the employee's circumstances.

Normally, an employee's notice period will align with the time they remain on the redeployment register, meaning no separate notice period will normally be required. The notification issued to the employee will confirm whether this applies in their case.

9.7 Information held for redeployment purposes will be processed in accordance with the Council's data protection obligations and any applicable employee privacy notice. Access to redeployment information will be limited to those with a legitimate business need to know.

## **10.0 Procedure**

- 10.1 Before advertising a vacancy, the hiring manager, supported by HR, must consider whether it is a match for any employee on the Redeployment Register.
- 10.2 Vacancies that have already been advertised will also be considered by the Recruitment Team for potential matches. If a match is identified, recruitment will proceed as normal up to shortlisting. However, any matched redeployees will be prioritised for the role. The hiring manager and any shortlisted candidates will be notified by the Recruitment Team that the process has halted until any matched redeployees have completed a trial period.
- 10.3 The Recruitment Team and the hiring manager will assess suitability based on:
  - the minimum criteria for the role;
  - the employee's skills and experience; and
  - any reasonable adjustments or training that may be reasonable for a successful redeployment.
- 10.4 While on the redeployment register, redeployees are free to apply for roles within the Council that they are not matched to. However, they will be required to go through the normal recruitment process, including a full application and formal interview.
- 10.5 In a redundancy situation, where an employee has statutory priority protection and there is a suitable alternative vacancy, that vacancy must be offered to the employee in accordance with the applicable legal requirements. The employee is not required to compete for the vacancy where the law requires the Council to make an offer.
- 10.6 Where more than one employee is at the same level of priority (per Section 8) in relation to the same vacancy, and there are insufficient vacancies for all such employees, the hiring manager will undertake an objective assessment to determine which employee is most suitable for the role, taking account of the role requirements, skills, experience and any adjustments that may reasonably be made. The manager will explain their decision in writing.
- 10.7 The manager must ensure that:
  - the selection criteria used are fair, these may include: skills and/or experience; qualifications; standard of work performance and/or aptitude for work; attendance and/or disciplinary record;
  - any selection criteria must be substantiated and backed up with objective data;
  - application of the selection criteria will comply with equalities legislation to ensure that employees are not discriminated against on any prohibited grounds.
- 10.8 For employees who do not have statutory priority protection, the Council will use a redeployment assessment process to determine suitability for a vacancy. This will include an informal discussion with the hiring manager, using the Employee Profile Form. The purpose of the assessment will be to confirm suitability, training needs and any support required, rather than to replicate a full formal interview.
- 10.9 For disability-related redeployment, the Council will consider whether:
  - the employee could undertake the role with reasonable adjustments if required;
  - a reasonable period of retraining or familiarisation would enable the employee to undertake the role;

- changes to hours, duties, equipment, work location or working arrangements would remove or reduce disadvantage; and
- redeployment to a different grade may be appropriate with salary protection as a reasonable adjustment, as set out in Section 13.2.

10.10 Employees on the Redeployment Register are expected to engage constructively with the process, including providing accurate information, attending meetings, considering vacancies identified for them and responding within reasonable timescales. Failure to engage may affect the Council's ability to identify suitable alternative employment and may, in redundancy cases, be taken into account when considering whether a refusal or failure to cooperate is unreasonable.

10.11 The Council will confirm in writing any offer of redeployment, any proposed trial period, any training arrangements, and any material differences between the employee's current and proposed role.

10.12 Redeployment will normally last for the employee's notice period, determined by redundancy notification or a final review meeting under the relevant process. If no suitable alternative vacancy can be identified or if redeployment is unsuccessful by the end of notice, the matter will proceed under the relevant procedure, including redundancy, sickness absence or capability procedures, as appropriate.

## **11.0 Trial Period**

11.1 Where an employee accepts an offer of alternative employment and the new role differs from their existing contractual terms, the employee will normally have a trial period of 4 weeks.

11.2 If the trial period is successful, the employee will transfer permanently into the new role, and HR will confirm the appointment and any changes to terms and conditions in writing.

11.3 If an employee or manager believes an offered role is not suitable, they should explain their reasons in writing to HR as soon as reasonably practicable. An independent manager will consider those reasons carefully before any decision is made about the consequences of refusal.

11.4 Suitability will depend on the circumstances of the case, including factors such as the duties of the role, pay and benefits, status, hours, location, travel requirements, the employee's skills and abilities, health considerations, and the overall impact on the employee's personal circumstances.

11.5 In deciding whether a refusal is unreasonable, the Council will consider the criteria set out in 11.4 in all redeployment cases.

11.6 Any decision that an employee has unreasonably refused alternative employment must be confirmed in writing, setting out:

- the vacancy offered;
- why the Council considers it was suitable;
- the employee's reasons for refusal;

- the Council's reasons for rejecting those representations; and
- the right to request a review under paragraph 11.7.

11.7 An employee may request a review of a decision under this section by writing to HR within 5 working days of receiving the decision. The review will normally be heard by a manager who has not previously been involved in the matter, supported by HR. The outcome will be confirmed in writing.

## 11.8 **Redeployees at Risk of Redundancy**

11.8.1 For employees under notice of redundancy, the trial period will begin when the employee is matched during their notice period, or otherwise in accordance with the statutory rules that apply at the time.

11.8.2 Where a longer trial period is needed for training purposes in a redundancy case, any extension must be agreed in writing before the trial period starts and must specify:

- the date on which the extended trial period will end; and
- the terms and conditions that will apply after the end of the extended trial period.

Any extension must be reasonable for the purpose of securing successful redeployment. For example, it may be used to give sufficient time for functional skills tests where GSCEs are a minimum qualification requirement.

11.8.3 During a trial period, the employee and the receiving manager must actively review the suitability of the role, any training needs, performance expectations, workplace adjustments and any support required. HR may attend review meetings where appropriate.

11.8.4 If, during a redundancy-related trial period, the employee or manager concludes for sound reasons that the role is not suitable, the employee or manager must notify HR during the trial period or any lawfully agreed extension.

11.8.5 An independent manager, supported by HR, will consider the reasons provided. In the case where the role is still considered suitable, they will advise the manager and employee about how to proceed.

11.8.6 If the role is considered unsuitable, the independent manager will confirm the employment position in writing, including whether the employee remains entitled to redundancy rights in accordance with the law and the circumstances of the case per Section 11.6.

11.8.7 In redundancy cases, an employee who unreasonably refuses suitable alternative employment may lose their entitlement to a statutory redundancy payment and, where applicable, any enhanced redundancy payment, subject to the Council's contractual arrangements and any applicable law. Before any such decision is made, the employee will be given an opportunity to state their case.

## 11.9 **Redeployees for Health or Disability-Related Reasons**

11.9.1 If, during a medical or disability-related redeployment trial period, there are concerns about suitability for the role, the manager must ensure they have exhausted reasonable support for the employee. This may include:

- further training;
- reasonable adjustments; or
- flexible working arrangements.

Managers should note that this is not necessarily an exhaustive list and must consider what measures would be appropriate for the role.

11.9.2 If, after other measures have been put in place by the manager, the role is found to be unsuitable, HR will review whether:

- another vacancy may be available; or
- the matter should return to the final review meeting per Section 37 of the [Managing Sickness Absence Policy](#).

If the trial role proves unsuitable, the employee's employment will normally revert to the original department.

11.9.3 In medical or disability-related redeployment cases, a refusal will not automatically be treated in the same way as a refusal in a redundancy case. The Council will consider whether the role was appropriate having regard to the employee's condition, medical advice, reasonable adjustments and the Council's obligations under the Equality Act 2010.

11.9.4 If the refusal is considered to be unreasonable, the employee will have any decision confirmed in writing per Section 11.6.

## **12.0 Financial Support**

12.1 Salary protection is only payable under a redundancy situation and where there is a reduction in salary for a role one grade lower between the old and new posts. In these cases, the original employing department pays the protection element of salary for the length of the protection period.

12.2 Where a member of staff is redeployed to a post that is one grade lower only as an alternative to redundancy and thereby suffers a drop in salary, they will be eligible for salary protection. The amount of protection payable will be the difference between the annual salary immediately before and immediately after the change.

12.3 Protection will include base salary for the employee's substantive post only. Essential User Car Allowance and any other allowances, enhancements, retention payments, market premia or benefits relating to the employee's previous post or working patterns are excluded from protection.

12.4 This protection will be paid for a period of up to 3 years from the date of the change, calculated as follows: 100% protection in the first year; 75% protection in the second year; 25% protection in the third year.

- 12.5 Pay protection is not automatic. Adjustments must be proportionate, effective and time-limited where appropriate. Adjustments may be reviewed and varied as circumstances change. For example, if an employee receives a pay rise, the salary protection will be adjusted down equal to the pay rise.
- 12.6 Protection will be paid in equal monthly instalments alongside the employee's salary. If the annual salary in the new post increases during this period, protection will reduce or cease as appropriate.

### **13.0 Time Off for Interviews**

- 13.1 Reasonable paid time off work, with agreement, is offered to redeployees seeking alternative work within or outside Medway Council. This only applies to those redeployees in a redundancy situation.
- 13.2 Employees must provide adequate notice to their manager of any interviews or appointments for which they are seeking paid time off

### **14.0 Data Protection and Privacy**

- 14.1 Medway Council will manage records efficiently and systematically, consistent with the General Data Protection Regulation (GDPR), the Data Protection Act 2018 (DPA18) and the Lord Chancellor's Code of Practice on Records Management, supporting the business objectives of the Council and meeting legislative, regulatory, funding and ethical requirements.

### **15.0 Monitoring of Policy Effectiveness**

- 15.1 The effectiveness of this policy will be measured by the number of successful redeployments against the number of unsuccessful redeployments.
- 15.2 Feedback will be sought from both employees and managers involved in this procedure. Concerns and issues will shape future revisions of the procedure to ensure a smooth and productive process.

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## **Version history**

Published (Name of Policy) v1.4 July 2024 (if updating policy then add details of previous version e.g. replacing V1.3 June 2022)

Author: (if new Author advise Name and Job Title)

Responsible officer: (If there has been a change please update)

## **Appendix A: Employee Profile Form**

## **Appendix B: Hiring Manager Quick Guide**

## **Appendix C: Redeployment Process Flow Chart**

## **Appendix D: Same-Priority Redeployee Assessment Form**