Managing Change, Restructure and Redundancy

Document Control

**Title**: Managing Change, Restructure and Redundancy

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1. **Policy Statement**

1.1 It is the intention of DSU to seek to provide, as far as possible, security of employment for all of its employees and, wherever possible, avoid making compulsory redundancies. This guidance is designed to help People and Organisational Development and managers carry out re-structuring, re-organisation and redundancy exercises effectively and fairly and to help ensure consistency, legal compliance and good practice in the way DSU carries out change.

1.2 This guidance is not intended for low impact or minor changes (for example, changes in job titles, changes in reporting lines, minor changes to job descriptions, etc.) although good practice dictates that even minor changes should be discussed with the employees affected so that they are adequately informed and understand the reason for change. As a general rule, this guidance should be applied where significant changes are proposed including significant departmental or team restructures, significant changes to working practices, or workforce reductions and redundancies. Advice should be sought from People and Organisational development on whether this guidance applies where any organisational change is proposed.

2. **Scope**

2.1 This policy applies to all employees. It does not however apply to agency workers, consultants of any self-employed contracts.

2.2 This policy does not form part of any employee’s contract of employment and it may be amended at any time.

3. **Planning for change**

3.1 Managers should clearly identify what needs to be achieved and the rationale for change to ensure transparency and openness throughout the process.

3.2 Managers should have an implementation date in mind and work backwards to map out the different stages, identifying key processes, necessary approval routes, resources, and roles and responsibilities.

3.3 Sufficient time should be allocated for the necessary internal and statutory processes (where applicable) i.e. collective (where applicable) and individual consultation, job evaluation, etc.

4. **Approval**

4.1 The Trustee Board has overall responsibility for restructuring proposals and ensuring that the required processes are followed. Operational responsibility for this is delegated to the Chief Executive Officer.

5. **Consultation and Communication**

5.1 DSU is committed to full and meaningful consultation with employees with regard to organisational change.
5.2 Consultation should cover the proposals, the rationale for the proposals and the proposed processes for implementing the change.

5.3 Consultation should commence when the contemplated restructure or redundancies are at proposal stage and before any firm decisions have been taken.

5.4 Where the proposals involve potential redundancies, consultation should be undertaken in ‘good time’ with a view to reaching agreement and, as a minimum, no later than the statutory timescales set out below. Managers should work backwards from when the first dismissal by reason of redundancy is proposed to take effect and plan accordingly.

5.5 Consultation must be meaningful with adequate time allowed for affected employees to properly consider the proposals and for management to fully consider any alternative proposals put forward.

5.6 Consultation must include ways to avoid, reduce the number, or mitigate the consequences of any possible redundancies. This may include (but may not be restricted to) considering:

5.6.1 Imposing vacancy management processes to restrict the recruitment of new staff other than where this is essential;
5.6.2 Restricting the use of subcontract, casual and temporary (eg agency) staff;
5.6.3 Reducing the amount of overtime working;
5.6.4 Inviting applications for early retirement and/or voluntary redundancy.

6. Collective Consultation

6.1 There is no set period for collective consultation where proposed redundancies involve fewer than 20 employees but, as a matter of good practice, DSU will normally apply as a minimum the 30 days’ consultation period before the first redundancy dismissal takes effect.

7. Individual Consultation

7.1 As far in advance of the proposed implementation date (or proposed termination date) as possible, management will notify all potentially affected employees of the proposals and the processes to be followed (including, where necessary, details of the proposed selection criteria).

7.2 Depending on the scale of the proposals and the numbers potentially affected, it will be necessary to decide whether to communicate the proposals to employees in one group or in a series of smaller groups.

7.3 Individual consultation with affected employees will be required where an employee is provisionally selected for redundancy. As a minimum, this must take place prior to the issuing of any notice of dismissal.

7.4 Where redundancies are proposed, the manager will write to each affected employee explaining the circumstances and inviting them to attend a meeting. The consultation meeting must include discussion regarding the rationale and the business reasons behind the restructuring and how the employee has been selected for redundancy; possible ways to avoid redundancy; and possible alternative work.
7.5 An employee may be accompanied by a work colleague, or a Trade Union Representative, if a registered member of that Union, at any individual consultation meeting as long as this does not lead to undue delays in the process.

7.6 The manager will take due note of and give full consideration to any representations made by the employee before any decision is confirmed to the employee.

7.7 There is no maximum limit on the number of individual consultation meetings that may be held, however, it is expected that each employee who is provisionally selected for redundancy will normally be offered at two individual consultation meetings before notice of redundancy is issued.

7.8 In the course of individual consultation, employees will be informed of any entitlements they may have to a redundancy payment.

7.9 Where, following consultation, an employee is confirmed as selected for redundancy, written notice will be issued in accordance with contractual entitlements.

7.10 DSU will continue to seek alternative employment for employees under notice of dismissal for redundancy for the remainder of their notice period.

8. Absent Employees

8.1 If employees are absent on long-term sick leave, unpaid leave, maternity/paternity/adoption leave or any other form of extended absence from work (including suspension under the Disciplinary Procedure), they must be consulted about any proposals that potentially affect them and have access to any communications to staff on the proposals.

8.2 Where an employee is invited to attend an individual consultation meeting while they are on a period of unpaid absence, payment for the time spent attending work for this purpose will be considered on a case by case basis.

9. Redundancy

9.1 It should always be made clear at the start of any restructuring exercise that the intention will be to absorb as many employees as possible into the new structure or through redeployment elsewhere.

9.2 Where a restructuring exercise is likely to result in redundancies, any redundancies must be genuine. A genuine redundancy may occur where any of the following applies:

9.2.1 A cessation of business by the employer;
9.2.2 A cessation of business at the employee’s workplace; or
9.2.3 A cessation or diminution of the employer’s requirement for employees to carry out work of the particular kind undertaken by the employee.
9.2.4 A cessation or diminution of the employer’s requirement for employees to carry out work of the particular kind undertaken by the employee in the place where the employee was employed by the employer.

9.3 The latter two will be the most common reasons for redundancies.
10. **Voluntary Redundancy**

10.1 Voluntary redundancy may be considered where there is a clear business case to justify the associated costs and the possibility of redeployment has been considered.

10.2 DSU may at its discretion invite applications for voluntary redundancy to minimise the need to make compulsory redundancies. Depending on the circumstances prevailing at the time, the following principles will normally apply:-

10.2.1 There will be a fixed period in which applications will be accepted;
10.2.2 The invitation for applications or an indication of willingness to consider voluntary redundancy from an employee will not imply any commitment on either part;
10.2.3 The agreed terms for redundancy payment will be made clear in each instance;
10.2.4 Any employees indicating willingness to consider voluntary redundancy will be able to discuss their position and details of redundancy pay with their manager as part of their individual consultation;
10.2.5 Any applications to be considered for voluntary redundancy will not in any way influence or prejudice the employee’s continuing employment in any way;
10.2.6 DSU reserves the right to select those employees that will be offered voluntary redundancy;
10.2.7 If there are more volunteers within the area affected than are required, the decision made will ensure there is a balanced workforce with the requisite skills to meet the needs of DSU;
10.2.8 There is no guarantee that voluntary redundancy requests will be granted;
10.2.9 DSU decision is final;
10.2.10 Once an application for voluntary redundancy is submitted and accepted by DSU, this becomes a binding and irrevocable commitment.

10.3 Employees accepted for voluntary redundancy will no longer be able to access alternative employment within DSU.

11. **Other voluntary measures**

11.1 Where voluntary measures are being considered for employees at risk of redundancy (eg voluntary severance, voluntary reductions in hours, phased or flexible retirement options), DSU may decide to extend these options to the wider workforce where it is reasonable to expect that this will help mitigate the effects or help reduce the numbers of compulsory redundancies.

12. **Redundancy Selection Criteria**

12.1 The application of selection criteria may be required depending on the type of redundancy situation, see 9.2 above. In these circumstances, employees at risk of redundancy will be placed in a selection ‘pool’ and selection criteria applied in order to provisionally select candidates for redundancy from the pool.

12.2 If criteria are used to provisionally select candidates for redundancy, they must reflect the future needs of DSU and be capable of objective measurement, be non-discriminatory and consistently applied.
12.3 The selection criteria may include some or all of the following, but the list is not exhaustive:

12.3.1 Qualifications/training
12.3.2 Experience (gained in a formal or informal setting)
12.3.3 Skills/knowledge/aptitudes
12.3.4 Productivity
12.3.5 Flexibility
12.3.6 Attendance record
12.3.7 Disciplinary record
12.3.8 Performance
12.3.9 Others eg (i) ability to work required rota system or (ii) possession of driving licence

12.4 In some cases management may wish to weight the criteria to reflect their relative importance to the future requirements of the posts that will remain.

12.5 When attendance records are to be used DSU will carefully assess the reasons for absences. Absences relating to pregnancy/maternity and disability will be discounted.

12.6 Where both disciplinary and attendance records are being taken into account, care will be taken not to penalise an employee by ‘double counting’ ie a disciplinary warning for absence would be an example of ‘double counting’.

13. Employees on maternity/paternity/adoption leave

13.1 In accordance with relevant legislation, an employee on maternity/additional paternity/adoption leave who is to be made redundant must be offered any suitable alternative vacancy available in preference to other employees. People and Organisational Development will advise where this provision applies.

13.2 Redundancy during maternity/paternity/adoption leave will end the contractual obligations to both occupational maternity/paternity/adoption pay and the right to return. Statutory maternity/paternity/adoption payments are not affected and continue until the end of the maternity/paternity/adoption pay period, or until the employee starts work for a new employer.

13.3 Any payments made to the employee in respect of maternity/paternity/adoption pay go towards meeting DSU’s obligation in respect of notice pay.

14. Redundancy Pay

14.1 Employees who are dismissed on the grounds of redundancy and who have the necessary statutory continuous service at the date of termination of their employment (currently two years but subject to change in accordance with the legislation in force at the point of termination) are entitled to be paid statutory redundancy pay. Statutory redundancy pay is calculated according to the individual employee’s age, length of service and gross weekly pay (subject to the statutory upper limit on a week’s pay).

14.2 Where employees have voluntarily agreed to the termination of their employment, DSU will apply an enhancement to the statutory element of redundancy pay which will be agreed at the time of termination.
14.3 In every case, the statutory maximum of 20 years’ service applies.

15. **Pension Implications**

15.1 The rules of the relevant pension scheme will apply when considering access to pension.

16. **Potential employment related claims**

16.1 A condition of DSU paying an enhanced scheme will be that the employee will be required to sign a settlement agreement under the Employment Rights Act 1996, either directly with DSU or through an ACAS form COT3, by which the employee will agree not to pursue any legal claims, including but not limited to unfair dismissal against DSU. Where an employee refuses to enter into such an agreement, the employee will be entitled only to the statutory minimum redundancy payment.

17. **Alternative Employment**

17.1 DSU will attempt to provide alternative employment within DSU for employees provisionally selected for redundancy.

17.2 Where alternative employment cannot be found, assistance may be provided to help employees obtain employment outside of DSU during their notice period. This may include reasonable provision of resources eg access to computer, internet, stationery, photocopying, and telephone facilities to look for work and apply for vacancies.

17.3 Subject to operational requirements, employees will be entitled to reasonable time off work during their notice period to look for work or to seek re-training opportunities. Requests for time off should be made in the first instance to the employee’s line manager.

17.4 If an offer of suitable alternative employment is made but the employee unreasonably refuses to accept it, the employee will forfeit their entitlement to a statutory and enhanced redundancy payment.

18. **Trial Periods**

18.1 An offer of alternative employment is subject to a statutory four week trial period if any term of the new contract differs from the corresponding term in the old contract eg place of work or terms and conditions.

19. **Support for Staff**

19.1 It should be recognised that the process of change can be a stressful experience for all concerned and employees should be made aware of the support mechanisms that are available to them.

19.2 If employees have concerns they should speak to their manager in the first instance. They may also contact People and Organisational Development.
20. **Appeals**

20.1 If an employee, under notice of dismissal by reason of redundancy, wishes to appeal the decision, they must lodge their appeal, specifying their grounds, in writing within five working days of the notice of redundancy being served.

20.2 An appeal will be heard by a more senior member of staff and an Elected Officer; both of which would not have been involved at the first stage of the procedure. In the event this relates to the CEO, the appeals procedure shall be referred to the Chair of the Trustee Board together with two other members who were not involved at the first stage.

20.3 If the appeal is not upheld, the employee will remain under notice of dismissal.

20.4 The decision of the appeal is final.

21. **Monitoring and Review**

21.1 This policy will be revised periodically, giving due consideration to any legislative changes where necessary amendments may be made.