

**NORTH LINCOLNSHIRE COUNCIL**

**CORPORATE SERVICES CABINET MEMBER**

**REDEPLOYMENT AND REDUNDANCY POLICIES**

**1 OBJECT AND KEY POINTS IN THIS REPORT**

1.1 To seek approval for revisions to the council's Redeployment and Redundancy policies.

**2 BACKGROUND INFORMATION**

- 2.1 The council's Redeployment and Redundancy policies were last updated during 2008 and 2006 respectively. Amendments have been made to the documents to support the council during a period of significant reductions in funding. There is the likelihood of potential redundancies and as a result an increase in the number of employees the council endeavours to find suitable alternative employment.
- 2.2 A framework of prioritisation has been introduced to the Redeployment policy in the knowledge that the numbers of redeployees will increase. The prioritisation framework takes account of employment legislation and relevant case law and also outlines the option for the Assistant Director Human Resources to temporarily remove from the redeployment register those redeployees in receipt of a protected payment who occupy a permanent post.
- 2.3 The revised Redeployment policy has also been strengthened to encourage both redeployees and recruiting managers to make every effort to avoid redundancies. This is reinforced by informing potentially redundant employees that they may lose the right to any redundancy payment if they reject an offer of suitable alternative without good reason. The 'slotting in' of redeployees is also promoted where possible and recruiting managers are now required to document the reasons for any decision to reject a matched redeployee for interview or for a trial period following an interview.
- 2.4 The revised Redundancy policy strengthens the detail outlining the council's obligations to consult and communicate appropriately during potential redundancy situations. It also updates references to the compensation for termination of employment due to redundancy. Changes are also made to outline to potentially redundant employees the implications of accepting a job offer with another council or Modification Order Body.

**3 OPTIONS FOR CONSIDERATION**

- 3.1 To consider and accept the revised policies.

- 3.2 To reject the revised policies.
- 3.3 To recommend further amendments to the revised policies.

#### **4 ANALYSIS OF OPTIONS**

- 4.1 The revised policies are an integral part of measures to reduce the impact of the government's spending review on the council workforce. Acceptance of the policies will improve the management of the redeployment process during a period of unprecedented change with the aim of avoiding redundancies wherever possible. In circumstances where redundancies are unavoidable the revised policies will support the council in fulfilling statutory obligations around consultation and communication.
- 4.2 The existing Redeployment and Redundancy policies have served the council well but are not sufficiently detailed to address a significant increase in the volume of redeployees and the likelihood of unavoidable redundancies. Rejecting the revised policies is likely to undermine the management of redeployment and redundancy situations during this period.
- 4.3 Recommending further changes to the policies would require further consultation and delay implementation of the changes which are designed to support the process during unprecedented times.

#### **5 RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

##### **5.1 Financial**

A previous report submitted by the Assistant Director Human Resources outlined changes to the council's policy on compensation for termination of employment. These changes are implemented from 1 January 2010 and reduce the costs of any redundancies after this date by withdrawing a discretionary compensation award.

##### **5.2 Staffing**

Staffing implications in each service will be discussed and appropriate consultation will take place with the full support of the HR service. The management of the redeployment process will be absorbed within the current staffing of the HR transaction team. This shift will initially be managed during a period where there is a clear emphasis on holding vacancies and redeploying potentially redundant employees.

##### **5.3 Property**

None.

##### **5.4 IT**

None.

#### **6 OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 CRIME AND DISORDER, RISK AND OTHER)**

- 6.1 The revised Redeployment policy complies with the redundancy requirements of the Maternity and Parental Leave etc. Regulations 1999 by giving those employees at

risk of redundancy who are on maternity/adoption leave priority treatment, where suitable alternative employment opportunities are identified. The Redundancy policy complies with statutory duties to consult as outlined in the Trade Union and Labour Relations (Consolidation) Act 1992 (TULCRA).

## **7. OUTCOMES OF CONSULTATION**

7.1 The relevant trade unions have been consulted and are supportive of the revisions.

## **8 RECOMMENDATIONS**

8.1 That the revised policy be approved and adopted.

Assistant Director Human Resources  
Pittwood House  
Ashby Road  
Scunthorpe  
DN16 1AB

Author: P Adams  
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**Background Papers used in the preparation of this report: None**

## 1.0 INTRODUCTION

- 1.1 This procedure describes the process to be followed as a means to achieve retention of employees who can no longer remain in their existing post under defined circumstances.
- 1.2 The objective of the process is to find suitable alternative employment. This would be a post that makes use of the redeployee's skills and abilities and is as close as possible to their existing salary.
- 1.3 It is the responsibility of all parties including the individual employee to support the underlying principle of this procedure to make every effort to find suitable alternative employment.
- 1.4 The procedure will apply to employees of the council with one year or more continuous service.
- 1.5 For employees who become disabled as defined by the Equality Act 2010, and who are no longer able to carry out the duties of the post, the requirement to have completed one year or more continuous service will not apply. Where disability is a factor in any of the circumstances defined in 1.9, the Assistant Director Human Resources (HR) will consider whether any reasonable adjustments can be made to this procedure.
- 1.6 Employees in fixed-term and temporary posts of one year or more will be placed on the redeployment register for the last 12 weeks of their contract.
- 1.7 Employees will only be redeployed into fixed-term and temporary posts in circumstances where there are no other options available and where not doing so would result in an immediate redundancy situation and/or require the council to issue formal notice of the termination of their employment.
- 1.8 The procedure will not apply to:
  - Casual workers
  - Employees with less than one year's service.

*Note1: All such workers at 1.8 will be given access to vacancies should they not be required for any of the council's redeployees. In such circumstances, the posts will be offered at the rate for the job. Salary protection will not be applied. Further advice on whether an employee qualifies as a redeployee is available from your Human Resources (HR) service team.*

1.9 If more than one redeployee broadly meets the essential criteria for a post, priority will be given on the basis of the criteria detailed below.

### Priority 1

- Where an employee on maternity or adoption leave is under notice of redundancy (in accordance with Regulation 10 of the Maternity and Parental Leave Regulations 1999).

### Priority 2

- Where, as a result of an employee becoming disabled as defined by the Equality Act 2010, the individual is no longer able to carry out the duties of their post after reasonable adjustments have been considered.

### Priority 3

- Where a post has been identified as surplus to requirements and the employee is displaced due to changes in work demands, and is potentially redundant, **'at risk'**.
- Where, on the recommendation of the Occupational Health Service, an individual is unable to continue in their post.
- Where, as a result of a compulsory change in base, an employee is unable to arrange to travel to work.
- Where, as a result of a compulsory change in working arrangements, an employee is unable to work the required days or hours of the post.
- Where it becomes apparent that exceptional circumstances are likely to prevent an employee from continuing in their existing post, a Head of HR may authorise the inclusion of that employee on the redeployment register. This will only occur with the agreement of the employee and will only take place following consultation with the employee's Service Director and the Assistant Director Human Resources. Normal protection arrangements will apply.

## Priority 4

- Where the other half of a job sharer's post becomes vacant and there is a continuing need for the remaining hours of the post to be filled, but the post holder does not wish to accept them and no suitable partner can be found.
- Where, following a career break an employee is unable to immediately return to his/her substantive post or to a suitable alternative post.
- Where upon request, an employee is seeking different hours of work or a different location in order to care for a dependant Protection of salary/pay will **not** apply.

*Note 2: A dependant is defined as someone who lives with the employee as part of his or her family. In cases of illness, injury or where care arrangements break down, a dependant may also be someone who reasonably relies on the employee for assistance. This may be where the employee is the primary carer or is the only person who can help in an emergency. It would not normally include tenants or boarders living in the family home.*

1.10 Unless there are justifiable reasons for not doing so, employees who are in receipt of a protected payment or employees who are redeployed into a fixed-term/temporary post (see paragraph 1.7) will remain on the redeployment register as a Priority 4 redeployee and efforts in line with the principle outlined in 1.3 will be made to find permanent employment, which where applicable, further reduces the protected amount. During periods where there is a large number of 'at risk' redeployees the Assistant Director HR may temporarily remove from the redeployment register those redeployees in receipt of a protected payment who occupy a permanent post.

1.11 Redeployment may also arise as a result of a Dignity at Work investigation. If the decision of the independent Service Director is that the harasser/bully should be redeployed as an alternative to dismissal, then protection of salary will **not** apply. If it is the complainant who is redeployed then normal protection arrangements will apply. The Assistant Director HR will determine on a case by case basis what priority the employee concerned will be afforded. *Refer to Dignity at Work Policy C.4.*

## 2.0 PROCEDURE

- 2.1 If employees are unable to continue in their post for one of the reasons defined in paragraph 1.9 above, the Service Director will consider whether alternative opportunities are available. If there are no other options available, formal notice of the termination of their employment on grounds appropriate to the circumstances will be issued following the application of the appropriate procedure and including consultation with the trade unions/employee representatives if appropriate. Efforts to find suitable alternative employment will continue throughout the notice period.
- 2.2 Service Directors will be responsible for redeployment within their service area and may delegate this responsibility to the appropriate line manager who will be supported by a nominated HR service team representative. The nominated HR representative will offer support and guidance to both manager and redeployee until a permanent resolution is found.
- 2.3 Once a decision is made to place an employee on the redeployment register, a meeting should be scheduled at the earliest opportunity to explain the procedure and produce a record of the employee's knowledge, experience and skills using the Redeployee Profile (see Appendix 2). This information will be utilised throughout the redeployment process and should be updated accordingly where additional training takes place.
- 2.4 The redeployee will be advised by their nominated HR representative to be realistic about their expectations for alternative employment with reference to their personal circumstances. The redeployee will be asked the extent to which they are prepared to consider alternatives in hours, grade or location and this response will be reviewed by the HR representative on a regular basis with consideration for the remaining period of time the redeployee will spend on the register. The redeployee will be made aware that where a potentially suitable alternative post is offered the redeployee is expected to accept it, unless they can demonstrate a valid and substantial reason for not doing so.

- 2.5 Redeployees will be given reasonable time off with pay in order to attend interviews, personal development/training and any other meetings called in respect of their redeployment. The nominated HR representative with the support of the Learning and Development team will assess the training needs of individual redeployees and consider what tailored development may be reasonably provided. Redeployees will be encouraged to participate fully in any support sessions provided by the HR service.

*Note 3: During periods where there are a large number of 'at risk' redeployees the Assistant Director HR may make courses on the council's Corporate Training Programme available at nil cost to services.*

- 2.6 Nominated HR representatives will be responsible for identifying suitable employment opportunities across the authority for their redeployees, **prior** to a post being offered. Equally, redeployees should monitor the recruitment bulletin and notify their nominated HR representative where they consider a vacancy to be suitable for them. The nominated HR representative will arrange for the redeployee to receive the internal and external recruitment bulletins in an appropriate format.
- 2.7 Redeployees who broadly meet the essential criteria for a post (with a reasonable amount of training, development and support if necessary) will be offered an interview, prior to the post being advertised. As such, redeployees should not be put off applying for a post if there are elements of the employee specification they do not presently meet. If a suitable redeployee is identified after a post has been advertised they **must** be considered prior to the post being offered to an alternative candidate.
- 2.8 Where it proves difficult for a recruiting manager in consultation with HR, to establish whether a redeployee broadly meets the essential criteria for a post, it may be necessary for the employee to complete a Redeployment Application Form (see Appendix 3) for that post. The nominated HR representative will assist the redeployee in this process where required. Nominated HR representatives will provide recruiting managers with the reasons for redeployment in summary form only, as well as any additional information agreed with the redeployee.

- 2.9 Where a redeployee matched to a vacancy by a HR representative is rejected by the recruiting manager, the recruiting manager must in all circumstances complete Appendix 8 and discuss the decision fully with the nominated HR representative prior to continuing with the recruitment process.
- 2.10 Where only one redeployee who broadly meets the essential criteria for a post is identified, they will be 'slotted in' without the need for interview, subject to the normal trial period outlined at paragraph 2.15.
- 2.11 Where an exceptional number of redeployees within the same priority group broadly meet the essential criteria for the post, the number interviewed may be reduced to manageable levels, in turn, by using the full essential criteria, desirable criteria and a random selection process. HR advice should be sought by recruiting managers in these circumstances.
- 2.12 Interviews will follow the normal recruitment and selection process, however unless there are 'Safeguarding' obligations there will be no requirement to obtain references. All other pre-employment checks must be carried out in accordance with the council's Recruitment and Selection policy A.2 prior to commencement.
- 2.13 Redeployees who broadly meet the essential criteria for a post (with a reasonable amount of training, development and support if necessary) will be offered the post on a trial period. A HR representative will attend the interview where appropriate.
- 2.14 Where an applicant is not successful the recruiting manager must complete Appendix 8 and discuss the decision fully with the nominated HR representative prior to informing the redeployee of the outcome and prior to continuing with the recruitment process.
- 2.15 Employees redeployed into a post will have a minimum trial period of four working weeks with a maximum of 12 working weeks in which to decide whether they wish to accept the post. The manager will have the same period of time in which to assess the employee's suitability for the post. This performance should be continually monitored using the trial period training plan (see Appendix 4).

- 2.16 In exceptional circumstances and with approval from the relevant Head of HR, the maximum redeployment trial period of 12 working weeks can be extended.
- 2.17 Where an employee is successfully redeployed, the receiving service area will be responsible for paying any basic salary costs from the first day of the agreed trial period. The service area the employee is redeployed from will normally meet the cost of any protection and excess travel expenses throughout the trial period and beyond if the trial results in a permanent transfer.
- 2.18 During the trial period the manager must conduct regular reviews. Using the job description and employee specification, one-to-one reviews should explore the redeployee's new role and should consider their duties, responsibilities, and development. The sessions should assess the level of progress made and give consideration to appropriate internal and external training with reference to the completed trial period training plan (see Appendix 4).
- 2.19 The service area the employee is redeployed from will normally meet the cost of any reasonable amount of training required during the trial period, which enables an employee to successfully meet the essential criteria for a post. The receiving service area will be responsible for paying any associated costs of training that relates to the desirable criteria for a post. See note 3.
- 2.20 At the end of the trial period the manager and employee should hold a review to complete the trial period assessment form (see Appendix 5). This discussion should determine whether or not the trial period has been successful. If the trial period has been successful the employee should be confirmed into the post. If not, consideration should be given to further training or termination of the trial. Redeployees should bring their completed trial period self-assessment form to discuss at the review (see Appendix 6).
- 2.21 If a redeployee rejects the post within the trial period for an acceptable reason, or is considered unsuitable, they will remain on the register for the balance of their notice period. Appendix 7 must be completed by the nominated HR representative in all circumstances.

- 2.22 Redeployees who reject the opportunity to be considered for a suitable alternative post, or reject a post during or at the end of the trial period, without good reason, will be removed from the register and may lose any entitlement to a redundancy payment. If there are no other options available, formal notice of the termination of their employment will be issued, if this has not been actioned already. Appendix 7 must be completed by the nominated HR representative in all circumstances.
- 2.23 If an employee in receipt of a protected payment rejects the opportunity to be considered for a suitable alternative post or rejects a post during or at the end of the trial period without good reason, they will be removed from the redeployment register and notice of the withdrawal of salary protection will be issued. Appendix 7 must be completed by the nominated HR representative in all circumstances.
- 2.24 Whether or not a redeployment opportunity is considered a suitable alternative post and/or whether the rejection of a post by the redeployee during or at the end of the trial period is considered to be reasonable will be determined by the nominated HR representative, in consultation with the relevant manager where appropriate. Where the redeployee is in disagreement with this judgement the matter will be referred to the Assistant Director HR for further consideration.
- 2.25 As a result redeployees who are issued with formal notice of the termination of their employment and/or lose any entitlement to a redundancy payment will have a right of appeal outlined in the procedure in accordance with the prevailing reason for dismissal.

### **3.0 SALARY PROTECTION**

- 3.1 Should an employee be redeployed into a post that attracts a lower basic salary, the employee's basic salary at the point of redeployment (the day before they are redeployed) will be protected in accordance with paragraph 3.5. All salary protection payments will be subject to pension contributions. Other conditions of service will be protected in accordance with the scheme of protection (see Appendix 1).

- 3.2 Should a teacher be redeployed into a post that attracts a lower salary, mandatory safeguarding arrangements will apply in accordance the current School Teachers' Pay and Conditions Document (STPCD). Where no such safeguarding arrangements apply the teacher's basic salary will be protected in accordance with paragraph 3.5.
- 3.3 In circumstances where national pay awards are agreed after an employee has been redeployed but are backdated to a date prior to redeployment then the protected salary (personal salary) will be recalculated to reflect the new amount.
- 3.4 Employees redeployed into a post that attracts a lower basic salary will be appointed at the maximum point of the salary grade for the post except where they are being redeployed into a career graded post and they do not meet the progression criteria for the higher grade. In these circumstances the maximum point of the eligible grade will be used.
- 3.5 The protected salary (personal salary) will be reduced to the actual post value over a three year period using the formula detailed below. Where, however, working time varies between the previous post and the new post then any protection will be based on the percentage of full time equivalent (FTE) and not on salary (see Appendix 1).

*Note 3: Full time equivalent (FTE) is a way of measuring an employee's working time. For example an employee contracted to work 37 hours, five days a week, 52 weeks a year will have an FTE of 1.00 (100%). An employee who works 37 hours a week but on a term time only basis (i.e. not during periods of school closure) will have a minimum FTE of 0.83 (83%).*

Year One	Full protection. (personal salary)
Year Two	Post value, plus two thirds of difference between post value and personal salary. (cash value)
Year Three	Post value, plus one third of difference between post value and personal salary. (cash value)
Year Four	Post value.

- 3.6 The protected salary will be re-calculated on the anniversary of redeployment in line with the formula above. During the following year (subject to no further changes in hours, grade etc.) an employee can expect their combined basic salary plus protection (cash value) to be no less than the amount calculated on that anniversary. If national pay awards occur during that year they will reduce the amount of protection, but will also increase the post value so the employee should see no visible reduction in their cash value salary.
- 3.7 If an employee is redeployed into or obtains a higher graded post, whilst already in receipt of salary protection, the employee's combined basic salary plus protection (cash value) at the point of transfer and not the previously protected personal salary, will determine the starting salary within the grade of the new post.
- 3.8 In the unlikely event that an employee is further redeployed into a post that attracts a lower basic salary, whilst already in receipt of salary protection, the employee's combined basic salary plus protection (cash value) at the point of redeployment will be protected in accordance with paragraph 3.5 above.
- 3.9 Protection arrangements will terminate on either:
- the expiry of the protection period;
  - the post value permanently matching or exceeding the personal salary/cash value;
  - the employee choosing to apply for, and being appointed to a post where the grade is of lower or equal value (other than through the redeployment process)
  - the employee leaving the employment of the council
- 3.10 The salary protection principles outlined above will also apply in circumstances where an organisational review or a regrading application results in the re-evaluation of an employee's current post to a lower grade.

#### **4.0 ADDITIONAL**

- 4.1 Any complaints arising from the application of this procedure will be addressed (unless specified) in line with the council's Grievance procedure C.5.

## **1.0 INTRODUCTION**

- 1.1 It is North Lincolnshire Council's intention to provide a stable work environment and where possible security of employment for its employees.
- 1.2 It is recognised that circumstances may arise where changes in Central Government policy, organisational requirements budgetary constraints and the like, may necessitate the need for reductions in the number of employees leading to redundancies.
- 1.3 This procedure describes the process to be followed to ensure that any redundancy situation arising within the council is dealt with fairly and equitably and that all reasonable steps are taken to avoid the need for compulsory termination of employment.
- 1.4 This procedure will apply to all employees of the council other than those employed by schools with delegated powers.

## **2.0 PROCEDURE**

- 2.1 Where the possibility of a reduction in the size of the workforce arises, management supported by Human Resources (HR), will enter into consultation, at the earliest opportunity, with the affected employees (including those absent through sickness, family leave or on a career break) and the recognised trade unions or other representatives of the employees affected, with a view to establishing whether the proposed savings can be achieved by means other than redundancy. Consideration will be given specifically to the following alternative options, subject to the council's immediate operational needs:
    - imposing an immediate ban on further recruitment of employees, other than where it is necessary to maintain essential or statutory services or where recruitment may provide a redeployment opportunity.
    - seeking to redeploy potentially redundant employees into suitable alternative posts within the council;
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- restricting the use of fixed-term employees, casuals and agency workers;
- reducing the amount of overtime working in the service, team, etc.;
- the seeking of temporary lay off, short time working, etc. where appropriate;
- inviting applications for consideration for early retirement and/or voluntary redundancy.

## Redeployment

2.2 All potentially redundant employees (including those absent through sickness, family leave or on a career break) will be interviewed individually to inform them of any available vacancies, to establish individual requirements and to consider the employee's suitability for particular jobs.

2.2.1 Redundant employees who accept alternative employment with the council will be entitled to a minimum trial period of four weeks in accordance with prevailing legislation and the council's Redeployment procedure A.9.

2.2.2 Employees who reject the opportunity to be considered for a suitable alternative post or reject a post during or at the end of the trial period without good reason, may lose any entitlement to a redundancy payment. Following the completion of the minimum four weeks and after giving consideration to further training, should the council consider the redeployee to be unsuitable and wish to terminate the trial period, any entitlement to a redundancy payment under the substantive post will remain.

2.3 Where, after due consideration of the alternatives outlined above, the council considers that the need for redundancies still remains, the council will give to the recognised trade unions written details of their proposals and where appropriate will consult them on the detailed application of the sequential selection criteria outlined below:

- a) The degree of involvement in the area of work which has ceased or diminished.
- b) The skills, experience, qualifications and aptitude of the employee concerned.
- c) The standard of work performance.

- d) The attendance and disciplinary record of the employee concerned.
- e) Last in, first out, based upon service with the council, having checked that there are no age discrimination implications.

*Note 1: Absences which are disability related, pregnancy related or related to gender reassignment will be discounted for this purpose.*

- 2.4 A provisional selection for redundancy will then be made by the Service Director in consultation with the Assistant Director Human Resources.
  - 2.5 As far in advance of the proposed termination as possible management will notify all potentially affected employees (including those absent through sickness, family leave or on a career break) that compulsory redundancies are proposed and that a provisional selection has been made. It will be stressed that the selection is provisional only and may be subject to change. Management will then enter into immediate consultation on an individual basis with those employees provisionally selected for redundancy. In the course of consultation employees will be informed of the basis of their provisional selection and invited to make representations on their proposed dismissals.
  - 2.6 Management will take due note of and will give full consideration to any such representations before a confirmed selection for redundancy is made by the Service Director in consultation with the Assistant Director HR.
  - 2.7 In cases where the proposed number of redundancies is likely to exceed statutory levels, the Assistant Director HR will formally notify the relevant government department prior to any notice of dismissal being issued and will provide a copy to the recognised trade unions. Where 20 to 99 employees are to be made redundant, this must be at least 30 days before the first dismissal takes effect or 90 days in the case of 100 or more employees.
  - 2.8 Those selected for redundancy will be given written notice of termination in accordance with contractual entitlements. .
  - 2.9 Compensation for termination of employment due to redundancy will be in accordance with the entitlement laid down by the council's Local Government
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Pension Scheme (LGPS) Discretionary Options and Compensation for Termination of Employment policy A.8a. All employees who receive redundancy payments will be given written notification of the way in which their redundancy pay has been calculated.

- 2.10 Employees will be given permission to take time off work during their notice period to look for work or seek retraining opportunities in accordance with current legislation. Requests for time off should be made to the Service Director, or designated representative, and will not be unreasonably refused. The council will also endeavour to assist employees for whom alternative work cannot be found within the council to find other employment outside of the council. Individual counselling, training and appropriate resources will be made available to employees.
- 2.11 Employees will be made aware that should they be offered and accept alternative employment with another council or Modification Order Body (as defined in the Redundancy Payments (Local Government) (Modification) Order 1983 as amended), whether in writing or not, before their termination date and the new job starts within the four weeks after the date of redundancy, continuity of service is preserved. As a result there will be no dismissal and therefore no entitlement to a redundancy payment.
- 2.12 Attempts to redeploy will continue throughout the notice period.

### **3.0 VOLUNTARY REDUNDANCY AND EARLY RETIREMENT**

- 3.1 Voluntary redundancy will only be considered in circumstances where the employee's post is deleted and redeployment is not possible or where releasing the volunteer avoids a compulsory redundancy. In both cases the governance requirements outlined in the council's LGPS Discretionary Options and Compensation for Termination of Employment policy A.8a must be met.

#### **4.0 RIGHT OF APPEAL**

- 4.1 Employees wishing to appeal against the termination of their post should do so in writing within 10 working days of receipt of the written notice of termination.
- 4.2 Appeals should be directed to the Service Director Legal and Democratic Services who will arrange for the appeal to be considered by the Appeals Committee.