

NORTH LINCOLNSHIRE COUNCIL

POLICY AND RESOURCES CABINET MEMBER

PAYMENT OF AND REDEPLOYMENT OF APPRENTICES

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1. To provide information on an increase to the National Minimum Wage (NMW) minimum rate of pay for apprentices.
- 1.2. To obtain approval to increase the rate of pay for apprentices who have completed the first year of their apprenticeship, but who are not entitled to a higher age related NMW rate.
- 1.3 To seek approval for apprentices to access redeployment opportunities during the final 12 weeks of their contract.

2. BACKGROUND INFORMATION

Apprentice pay

- 2.1 Apprentices at the council are currently paid £2.60 per hour (£96.20 per week) in the first year of apprenticeship. Subject to satisfactory progress with their qualification, this is increased to £120.00 per week in subsequent years, unless they are eligible to receive an age related higher rate of the NMW.
- 2.2 From 1 October 2012 the NMW hourly rates took effect as follows:
 - For apprentices, an increase from £2.60 to £2.65 per hour (£98.05 per week);
 - for 18 to 21 year olds, no change remaining at £4.98 per hour;
 - the adult rate, an increase from £6.08 to £6.19.
- 2.3 The percentage increase for apprentices paid the lowest rate of the NMW is approximately 1.9%.
- 2.4 Apprentices are only entitled to receive an age related higher rate of the NMW when they are aged 19 or over and have completed the first year of their apprenticeship.
- 2.5 The rate of £120.00 per week, currently payable in subsequent years, is locally determined by the council.

Redeployment

- 2.6 There is no legal requirement to provide employment at the end of an apprenticeship but an employer may agree contractually to do this. Also, as there is no redundancy at the end of an apprenticeship, there is no legal duty to redeploy the apprentice into suitable alternative employment at the end of a successful apprenticeship.

3. OPTIONS FOR CONSIDERATION

Apprentice pay

- 3.1 To observe and implement the increase in first year minimum earnings to £98.05 in accordance with the NMW apprentice rate and to increase the local rate of pay by 1.9% to £122.00 per week for relevant second year apprentices.
- 3.2 To observe and implement the increase in first year minimum earnings to £98.05 in accordance with the NMW apprentice rate and to maintain the existing local rate of pay of £120.00 per week for relevant second year apprentices.
- 3.3 To observe and implement the increase in first year minimum earnings to £98.05 in accordance with the NMW rate for apprentices and to approve an alternative local rate of pay for relevant second year apprentices.

Redeployment

- 3.4 To afford apprentices the opportunity to be placed on the redeployment register for the last 12 weeks of their contract. Apprentices would be able to apply for job relevant vacancies after higher priority redeployees. The requirement for one year's service would not apply to apprentices.
- 3.5 To do nothing. Apprentices would simply be released by the council following the completion of their qualification.
- 3.6 Apprentices could be afforded a higher priority on the redeployment register but this would be limited by legislation and case law which shapes the existing priority framework. Furthermore it would start to impact upon employees who have been displaced due to redundancy and other changes imposed by the council or who are seeking alternative employment for medical reasons.

4. ANALYSIS OF OPTIONS

Apprentice pay

- 4.1 Acceptance of the proposals will ensure that the council maintains an appropriate pay differential for apprentices in the first year and subsequent years of their apprenticeship.
- 4.2 Rejecting the proposal would result in minimal pay progression for apprentices who have completed the first year of their apprenticeship.
- 4.3 Approving an alternative local rate of pay would require further consultation and could result in additional costs.

Redeployment

- 4.4 Affording apprentices the opportunity to be placed on the redeployment register will help all services across the council by offering a route to the retention of new talent with the specific skills base to fulfill permanent roles across the council.
- 4.5 Releasing apprentices following the completion of their qualification without access to redeployment would place them alongside all other applicants for permanent council vacancies
- 4.6 Affording apprentices a higher priority on the redeployment register would have a negative impact on existing employees searching for suitable alternative employment. The council would be open to challenge from other employees afforded protection by employment legislation.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial

The revised NMW apprentice rate weekly earnings for all apprentices will increase the cost of employing an apprentice in the first year by approximately £96 per annum. Subsequent programmes of apprenticeships will need to budget for likely increases in the NMW apprentice rate on 1 October each year.

Additional proposals would increase the cost of employing an apprentice (under the age of 19) during the second and subsequent years of employment by approximately £104 per annum. This would be funded directly by those employing services who decide to support an apprentice through a higher level qualification.

5.2 Staffing

Of the council's 44 existing apprentices 39 will receive an immediate increase in pay to £98.05 per week effective from 1 October 2012.

Two apprentices would be eligible to receive the proposed rate of £122.00 per week.

The remaining three apprentices are already eligible to receive a higher national minimum wage rate based on their age.

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 NMW apprentice rate increased from £2.60 to £2.65 per hour (£96.20 to £98.05 per week) from 1 October 2012.

7. OUTCOMES OF CONSULTATION

7.1 The relevant trade unions have been consulted and have raised no objections with the proposal to increase the local rate of pay by 1.9% to £122.00 per week for relevant second year apprentices.

7.2 Concerns were initially raised that extending the redeployment register potentially limited existing employees from obtaining suitable alternative employment within the council. It was made clear however that apprentices would only be applying for job relevant redeployment opportunities, for example, a horticulture apprentice would not be able to apply for an administration vacancy as a redeployee.

8. RECOMMENDATIONS

8.1 That the increase to the NMW apprentice rate is observed and implemented.

8.2 That the minimum weekly rate of pay is increased to £122.00 for apprentices who have completed the first year of their apprenticeship, but who are not entitled to an age related higher rate of the NMW.

8.3 That the council's Redeployment policy is updated to afford apprentices the opportunity to be placed on the redeployment register for the last 12 weeks of their contract, without the need to have attained one year of service.

Director of Policy and Resources

Civic Centre
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB
Author: P Adams
Date: 28 September 2012

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. Salary protection detailed in section 3.0 will apply to employees with two years or more continuous service.

Note 1: Qualifying service is with this authority or bodies named on the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999 (the Modification Order). A consolidated list of the bodies on the Modification Order can be accessed at www.lge.gov.uk.

- 1.5 For employees on maternity or adoption leave who are under notice of redundancy, and employees with a disability as defined by the Equality Act 2010 who are no longer able to carry out the duties of the post, the requirement to have completed one year or more continuous service, or two years in relation to salary protection, will not apply.
- 1.6 Where disability is a factor in any of the circumstances defined in 1.10, the Assistant Director Human Resources (HR) will consider whether any reasonable adjustments can be made to this procedure.
- 1.7 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.

- 1.8 Apprentices will be placed on the redeployment register for the last 12 weeks of their contract and will be able to apply for job relevant vacancies after priority 1 - 4 redeployees. The requirement for one year's service does not apply to apprentices.
- 1.9 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.
- 1.10 The procedure will not apply to:
- Casual workers
 - Employees with less than one year's service.

Note 2: All such workers at 1.9 will be able to apply for vacancies alongside other candidates, 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.

- 1.11 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 or additional paternity leave is under notice of redundancy (in accordance with Regulation 10 of the Maternity and Parental Leave Regulations 1999).

Priority 2

- Where, an employee with a disability as defined by the Equality Act 2010, 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 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.

Priority 5

- Apprentices in the last 12 weeks of their contract.

Note 3: 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.

1.12 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 1.8) 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.

- 1.13 Redeployment may also arise as a result of a Dignity at Work investigation. If the decision of the independent 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 1.10 above, the 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 Directors will be responsible for redeployment within their directorate 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 4: During periods where there is 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 Every effort will be made to consider redeployees for vacancies that arise up to their termination date. Contracts of employment will not be extended to enable a redeployee to attend any interview that takes place after their contract of employment has terminated.
- 2.9 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.
- 2.10 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.
- 2.11 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 any 'Safeguarding' obligations and the normal trial period outlined at paragraph 2.15.
- 2.12 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.

- 2.13 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.
- 2.14 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.
- 2.15 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.
- 2.16 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).
- 2.17 In exceptional circumstances and with approval from the relevant Head of HR, the maximum redeployment trial period of 12 working weeks can be extended.
- 2.18 Where an employee is successfully redeployed, the receiving directorate will be responsible for paying any basic salary costs from the first day of the agreed trial period. The directorate 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.
- 2.19 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).

- 2.20 The directorate 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 directorate will be responsible for paying any associated costs of training that relates to the desirable criteria for a post. See note 4.
- 2.21 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).
- 2.22 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.
- 2.23 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.
- 2.24 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.

- 2.25 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.
- 2.26 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.
- 2.27 A fixed-term post will not normally be considered suitable alternative employment where a suitable permanent alternative exists. A redeployee in these circumstances will not be prevented from accepting a fixed-term post but will do so without salary protection, on the terms and conditions of the post.

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 3.7 and subject to the maximum protected amounts (pro-rata) outlined in Appendix 10. All salary protection payments will be subject to pension contributions.

Note 5: '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 3.7.

- 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 An eligible employee will receive salary protection limited to the difference between, the salary of their substantive post and the maximum point of the salary grade of the new post, or the maximum protected amount (pro-rata) outlined in Appendix 10, whichever is less.
- 3.6 For example, for a full time employee being paid on Grade 7 (point 30) who accepts a Grade 4 position (point 14), the salary difference equates to £9,747 per annum. However, the employee will have their protection limited to the maximum amount outlined in Appendix 10 i.e. £7,642 per annum. An employee on Grade 7 (point 30) could be redeployed to Grade 6 without suffering a reduction in salary.
- 3.7 The protected salary (personal salary) will be reduced to the actual post value over a two 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 6: 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%).

Months 1-12	Full protection, or the maximum amount (pro-rata) outlined in Appendix 10, whichever is less. (personal salary)
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Months 13-18	Post value, plus 75% of the difference between post value and personal salary, or 75% of the protection payable during months 1-12, as appropriate. (cash value)
Months 19-24	Post value, plus 50% of the difference between post value and personal salary, or 50% of the protection payable during months 1-12, as appropriate. (cash value)
Month 25 onwards	Post value.

- 3.8 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.
- 3.9 Employees redeployed into a promotional post (a post at a higher grade than their substantive post) will be appointed at the bottom of the grade. In circumstances where a reduction in the employee's FTE results in a lower personal salary, the employee will not be eligible for salary protection.
- 3.10 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.
- 3.11 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 3.7 above.
- 3.12 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.

3.13 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.

4.2 The protection arrangements outlined at paragraph 3.7 will apply for a period of two years from the implementation date of this policy. After this period, the protection arrangements outlined in the previous version of this policy will be reverted to.