

## **Protocol in respect of matters relating to Circular LGRJG/08 – July 2014 ‘Procedure for the filling of Posts in the New Council Structures and Related Guidance’ (copy provided at Appendix A).**

### **Background and Introduction**

This document has been developed in consultation and agreement with the Council’s Joint Consultation and Negotiation Forum (JCNF) for the purposes of implementing Circular (LGRJF/08) issued by the Local Government Reform Joint Forum (Regional Forum).

This guidance will operate in the context of the employers’ statutory obligations and cognisant of the following arrangements:

- Public Service Commission, Guiding Principles, 3<sup>rd</sup> Guiding Principle – Staff Transfers, 4<sup>th</sup> Guiding principle – Filling New or Substantially New Posts in New Organisations being Created as a Result of RPA
- Circular LGRJF/08 – July 2014 Procedure for the Filling of Posts in the New Council Structures and Related Guidance<sup>1</sup>
- Local Government Staff Commission for Northern Ireland, Guidance on the Staffing Implications of Organisation Development and Change
- Local Government Staff Commission for Northern Ireland, Code of Procedures on Recruitment and Selection

### **General Principles**

The Council is committed to fair and equal treatment of all staff and is fully aware and committed to the relevant employment legislation.

This guidance details the stepped process that will be used by the Council when putting into practice the ‘Procedure for the Filling of Posts in the New Council Structures’ and related guidance.

### **Monitor**

The application of this document will be kept under review. Should any unforeseen circumstance arise which impacts its effective implementation, revisions will be considered, subject to consultation with the trade union side and the procedure adapted and changed if required and by agreement.

When applying the ‘Stepped Process’ the Council will take into account the following:

### **Substantive Contracts**

Determination of eligibility for posts for the purposes of this procedure should be based on a post holder’s current substantive contract of employment and job role (as

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<sup>1</sup> Referred to hereinafter as the procedure

distinct from a temporary secondment or acting up arrangement) and the essential requirements of the post ie. the postholder's agreed substantive Job Description.

Prior to Matching Exercise employees will be advised of their substantive JD and will be given the opportunity to raise their concern if they disagree with this determination.

Staff who are currently seconded elsewhere or otherwise absent from their substantive post due to acting up, career break, ill health or maternity/paternity/carer's leave/special leave etc., will be considered in respect of their substantive post at the same time as other staff.

### **'Acting-Up' Arrangements**

The Council will consider the factual position of those people in 'acting up' arrangements and will assess these on a case by case basis to determine if their acting up role is in fact their substantive job description. This will be done taking into consideration relevant case law, taking legal advice where required and in consultation with Unions.

### **Fixed Term Appointments**

Fixed term appointments will be addressed in accordance with the Fixed Term Employees Regulations 2002 and relevant case law, in the context of Vacancy Control and in consultation with Unions

## **Filling of Posts – Stepped Process**

### Step 1 – Designing Organisation Structures and New Posts

Once an organisation structure has been finalised, Job Descriptions and Specifications for posts will be developed, in accordance with normal organisational processes. New Job Descriptions will be issued to Unions and a period of 5 working days will be given for comments to be submitted to HR. New and substantially altered posts will be subject to 'desk top' job evaluation (JE), using the GLPC Job Evaluation Scheme in line with the relevant provisions of the NJC Terms and Conditions of Service and NIJC advice and arrangements. The rank order of posts will be jointly moderated in the context of the organisation.

Council acknowledges that this new era of local government heralds the opportunity for a new employee relations environment. The Council will commit to the joint development and agreement with the trade unions of a new joint procedure for the Job Evaluation of posts, in the context of any regional agreements. The aim will be that this local joint agreement will be operational within 12 months i.e. by August 2018 . The local agreement will be operational no later than 2 years from the date of the agreed Protocol.

Restructuring will be done in a phased approach.

Generic posts not directly impacted by the New Structure will be assimilated into the new structure using a process agreed with the joint Trade Unions.

In developing Person Specifications for posts, cognisance will be taken of 2.4.1 (pg. 6) of the procedure. Any criteria will be based on the minimum requirements required to do the job.

Once Job Descriptions and Person Specifications are finalised, the matching process will commence.

## Step 2 – Matching Existing Posts to the New Structure

When identifying those posts ‘directly affected’ by the new posts created, both sides should be mindful of the following guidance:

The matching process should be initially operated in respect of the post holders in the particular function. It is not considered practical that function is defined by reference to job category, for example all clerical positions. It is therefore recommended that it is defined and operated with individual departments (2.3.1 pg. 5).

### **2.1 Determination of Eligibility of Posts for Matching**

In advance of the ‘matching process’ the nominated HR representative(s) will identify those post(s) ‘directly affected’ by the new structure or post(s). The HR representative will then review this with the relevant management and nominated Trade Union Side representative(s). The HR representative(s) will then consider any representations made in relation to the inclusion or removal of (a) post(s). A schedule of posts to be included in the matching will be compiled (**Appendix B**). Human Resources will write to the post holders identified advising them that their post will be included in the matching process for a post in the new structure and outlining the process which will be followed. A copy of their current job description and specification will be attached. Post holders will be advised that there is a 5 day review period in which they can raise any objections to their inclusion in this list.

Staff will be informed of post/s currently subject to the Matching process through the Council's intranet and regular circulars and communications.

### **Review Process**

The nominated HR representative(s) will provide a copy of Appendix B to the nominated Trade Union Side representative(s) including the record of posts being excluded, together with a copy of the relevant job description(s) and person specification for the new post (where applicable).

The trade union side will have 10 working days to consider this list and to make representations to the nominated HR representative(s) in relation to the inclusion or removal of (a) post(s) from the list. The nominated HR representative(s) will consider any representations made and provide a response to the nominated Trade Union representative within 10 working days.

Decisions regarding posts included or excluded for matching will be recorded on the form enclosed (**See Appendix B**). Any changes will be communicated to post holders.

There is no further right to review this process.

## **2.2 Application of Matching Process**

### **Job Descriptions**

The current/most recent agreed Job Description (JD) for the substantive post will be used for the purposes of the matching process. Where a JD no longer accurately reflects the Job Duties and Responsibilities for the post the JD will not be updated however, the pro-forma provided at **Appendix C** will be attached to the existing JD and the employee and their line manager will agree and sign off the content to verify it reflects the substantive duties and responsibilities of the post in conjunction with the HR representative.

The purpose of this is to ensure that duties and responsibilities not reflected in the JD for the substantive post and not otherwise formally recognised elsewhere (including 'acting up' and 'honorary' arrangements), are accounted for in the job matching process for the purpose of enabling a realistic comparison. It is not anticipated that an Appendix C will be required in all cases. Appendix C should only be completed where a JD is significantly outdated. The completed Appendix C will then be used where that substantive post is included on a list for matching.

The information provided must be evidence based and is purely to facilitate the matching process – i.e. not for the purposes of job evaluation.

### **Person Specifications**

It should be noted that an employee specification developed for the purposes of applying the job-matching procedure may vary from that of an employee specification developed for the purposes of competitive recruitment and selection. This is because each of these processes have competing principles; one being to mitigate and protect employees against the threat of redundancy and the other to appoint a post holder to a post on the basis of a competitively based recruitment and selection process using the merit principle.

Anyone considered for inclusion in a ring-fence must meet the person specification for the post under consideration for matching. When developing person specifications for posts for the purposes of job matching, the Council will take care to ensure that any criteria will represent the minimum requirements that are absolutely necessary to do the job and can be objectively justified (2.4.1 pg. 6 LGRJF/08 Circular)

*Thereafter suitability for the post will need to be demonstrated in the same manner as any 'normal recruitment exercise i.e. job related shortlisting, interviewing and selection process. Only those who demonstrate that they meet the standards required will be confirmed in post (2.4 pg. 6 LGRJF Circular).*

### **2.3 Assessing the Degree of Change in Posts**

The following process will be used to assess the degree of difference between existing posts and those in the new organisation structures.

The aim of the assessment process will be to establish the posts which are:-

- Unchanged
- Minimally altered/amended
- Substantially altered/amended
- New posts

An assessment of changes in posts (i.e. comparing the job descriptions of the new and existing posts) will be carried out on the basis of existing agreed Job Descriptions and in accordance with (2.3 pg. 4) of the procedure. The assessment will be documented and will be carried out in a fair and consistent manner.

Reasonable criteria must be developed for measuring the content of jobs and managerial discretion must be exercised in a manner, which treats all posts/staff on an equal basis.

The following table indicates how posts will be assessed

<b>Assessment</b>	<b>Outcome</b>
Unchanged (Reference 2.3.1 of the procedure)	Where the assessment concludes 80% or more of the post is the same; the post will be transferred to the new structure and the employee(s) confirmed either in post <b>or</b> in a ring fenced pool to be considered for appointment.
Minimally Altered/Amended (Reference 2.3.1 of the procedure)	Where the assessment concludes 60% or more but less than 80% of the post is the same, the post will be transferred to the new structure and the employee(s) confirmed either in post or in a ring fenced pool to be considered for appointment.
Substantially Altered (Reference 2.3.2 of the procedure)	Where the assessment concludes 40% or more but less than 60% of the post is the same (e.g. the post contains a large element of a current job description but also a substantial element of new duties or responsibilities), permanent employees in a potential redundancy situation, will be included in a ring fenced pool to be considered for appointment.
New Post	Where the assessment concludes less than 40% of the content is the same that post will be regarded as a brand new post. Where there are permanent employees who have been clearly identified as being at risk of compulsory redundancy, these employees will be included in a 'ring fence' for the post.

## **Ring Fencing**

Ring fencing is where the pool of applicants for a post is restricted to those whose posts have been compared to posts in the new structure as part of the matching process (section 2.3.2 pg. 6)

Determination of the appropriate recruitment pool will focus on the need to promote employment protection by targeting in the first instance those in the 'at risk' group in broadly comparable grades or higher. For business reasons there will also be a need to ensure that the pool includes candidates with the necessary skills, experience, knowledge, qualifications etc.

The pool of candidates which is obtained using ring-fencing is arrived at very differently from that generated by the normal recruitment process. As a guiding principle however, any member of staff considered for inclusion in the ring fence must be 'suitable' i.e. must meet the person specification for the vacant post. (See paragraph on page 4 'Person Specifications')

## **Ring Fenced Trawl**

If there is more than one person in any matched pool a ring fenced trawl will be undertaken, this will include a selection process<sup>2</sup>. If no appointment is made, the locally agreed recruitment procedure will apply:-

1. 'At risk' within functional areas in Armagh, Banbridge and Craigavon
2. 'At risk' within Armagh, Banbridge and Craigavon
3. All employees within Armagh, Banbridge and Craigavon
4. 'At risk' within the other 10 Councils
5. External Advertisement

## **Functional Area**

The ring fence should initially be operated in respect of the post holders in a particular function. However, it is not considered practical that function is defined by reference to job category, for example all clerical positions. It is therefore recommended that it is defined and operated with individual departments (2.3.1 page 5).

## **The Matching Panel**

The Matching Panel will be comprised of a management representative, a trade union representative and the Head of HR, or nominated HR representative in advisory capacity. Secretarial support will be provided by HR if required.

## **The Matching Process**

### **Main Factors and how they will be assessed:**

It is important to remember at this stage that the existing substantive posts are being compared with the posts in the new council on a post to post basis and not with individual post holders.

### **Factor 1: Job Function and Main Purpose:**

The following will be considered:

- The main job function(s) of the post;
- The degree and level of responsibility required for the post.

### **Factor 2: Job Duties and Responsibilities:**

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<sup>2</sup> Suitability for any post will need to be demonstrated in the same manner as any 'normal recruitment exercise i.e. job related shortlisting, interviewing and selection process. Only those who demonstrate that they meet the standards required will be confirmed in post (2.4 pg. 6).



The following may be considered:

- Service planning;
- Operational activities;
- Personnel related issues;
- Monitoring, control and reporting to superiors;
- Range of contacts, internal and external, including Elected Members, Committee, Chief Officer contacts etc.

This is neither a prescriptive or definitive list and will be agreed prior to Job Matching based on the duties of the new Job Description.

A calculation of the percentage level of similarity between the comparator post and the new post will be assessed to provide the grouping of unchanged, minimally altered, substantially altered or new.

**Appendix D**, sets out two factors which will be used to assess the content of the existing posts and those posts in the new structure. Both of these factors are weighted equally at 50% and will be scored by the Matching Panel. Administrative/secretarial support will be provided by HR to deal with all documentation and communications relating to the work of the panel. All decisions will be recorded on **Appendix D**.

### Step 3 – The Outcomes

Once the matching process has been completed, posts will fall into one of 4 groups (refer to page 5 of this Protocol):

- Unchanged
- Minimally altered
- Substantially altered
- New

It is anticipated that in many cases the new structure will identify groups of staff or whole sections/departments which are unchanged and can simply be confirmed in the new structure.

#### **3.1 Confirmation of a position in the new structure**

In circumstances whereby employees have to compete for a position and are made an offer of appointment in the new Council, employees must normally confirm that they are going to accept this offer of employment within 10 working days.

Post holders who are confirmed in post will no longer be deemed to be 'at risk' and therefore will not be included in any restricted pools when there are staff who are still deemed to be 'at risk' of redundancy.



Where an employee is in a redeployment pool and is confirmed into a post that is not considered suitable alternative employment they will remain in the 'At Risk' group and therefore will still be eligible to be included in restricted pools

### **3.2 Redeployment Pools**

As employees become displaced throughout the process they will be added to a "redeployment pool". Employees in the redeployment pool will be considered for inclusion in the matched pools at Step 2 of this Protocol as follows:

- Those with a job that is matched to unchanged or minimally altered posts, will be included in the ring-fence pool for that post.
- Be automatically entered to substantially altered and new post pools.
- Be notified of suitable vacancies in another Council Cluster should these become available (cross-reference 'Ring Fenced Trawl' on page 6 of this Protocol).

## **Step 4 – Identifying the Pool of Candidates**

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In the first instance consideration will be given to postholder(s) whose post(s) have been assessed as "Unchanged or minimally altered/amended".

Postholder(s) whose post(s) have been assessed as "Substantially altered" will only be considered if no posts have been assessed as "Unchanged or minimally altered/amended" or if no appointment has been made following a ring fenced trawl. The guidance contained in paragraph 2.3.2 and 2.3.3 of the LGRJF Circular will then apply.

Where a number of employees have been matched to the post Ring Fencing will apply in accordance with paragraph 2.4 of the LGRJF Circular.

Displaced employees in redeployment pools will also be considered at this stage of the process and, if appropriate, will be included in the Ring Fenced pool.

Any selection process implemented will be in accordance with the LGSC Code of Procedures on Recruitment and Selection

## **Step 5 – Review**

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The secretary to the matching panel will then issue the decision in writing to the individual post holder.

An employee whose post is unchanged or minimally altered cannot request a review of the decision of the matching panel.

Requests to review the decision will only be considered where the matching panel has excluded (a) post. There is no right of appeal against decisions to match a post/include a post in a pool.

An employee who wishes to request a review of the matching process should advise the Secretary of the Matching Panel. The Secretary of the Matching Panel will then provide him/her with a copy of the new Job Description and Specification, details of the Job Description and Specification matched, a summary of the outcome of the matching process and a copy of the Review Form (**Appendix D**).

The employee should complete the Review Request Form provided at **Appendix E** within 10 working days, setting out in writing the reason(s) they want the decision reviewed and the grounds (s)he is basing this on. This information should be forwarded to the Secretary of the Matching Panel.

### **Review Panel**

The Review Panel will be comprised of a management representative, a trade union representative and the Head of HR, or nominated HR representative in advisory capacity none of whom will have been previously involved. Secretarial support will be provided by HR if required.

A review panel will be established including up of a manager and trade union representative not previously involved in the matching process. An HR representative will provided advisory input. Secretarial/Admin support will be provided by HR.

The Matching Panel should forward the Review Panel all of the information used to reach its conclusion.

A meeting should be convened with the employee to review the decision. On these occasions the employee may be accompanied by a work colleague or accredited TU representative. The meeting should be convened within 10 working days and a decision given within 5 working days. The decision of the Review panel is final, there is no further right to review.

### **Step 6 – Suitable Alternative Employment**

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Staff 'At Risk' of compulsory redundancy are entitled to be offered suitable alternative employment where available. (2.5 pg. 7)

*(Section 2.3.1 pg. 5 of Circular LGRJF/08 states that post holders who have been confirmed in post will no longer be deemed to be 'at risk' and should therefore not be included in any restricted pools when there are staff who are still deemed to be 'at risk' of redundancy). Subject to step 3.1*

### **RPA Staff Severance Scheme for Local Government**

The introduction of Severance will be phased and expressions of interest will be invited from specific groups of employees at the appropriate time in the phasing

process. It is important to stress that members of staff will only be granted voluntary severance under the RPA Scheme where it is in the financial and managerial interests of the service and organisational need and where a clear business case can be made. Severance will only apply to staff who are surplus under the new structures and who cannot be offered suitable alternative employment or where the scheme could potentially be used to avoid compulsory redundancy when another employee is prepared to leave voluntarily.

Signed:

Signed:

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Dated: