

<b>Committee</b>	Board of Management – HR&R Sub-Committee		
<b>Date paper prepared</b>	22/03/2022	<b>Date of committee meeting</b>	30/03/2022
<b>Subject</b>	Recruitment and Selection Policy and Procedure		
<b>Author</b>	Judith Fenton, HR&OD Lead		
<b>Action requested</b>	For Approval		
<b>Purpose of the paper</b>	Organisational Restructuring Policy and Procedure		
<b>Brief summary of the paper</b>	<p>The SUHI Organisational Restructuring Policy and Procedure is presented to the HR&amp;R Subcommittee for review and approval. This policy sets out our approach to restructuring and was considered an essential component to enable the preparation of any business case for restructuring. The policy has been developed in partnership with union representatives and has been extensively consulted upon. The areas for particular highlight are those relating to payments – voluntary severance and redundancy – and potential implications of pay protection. If approved, this will enable the development of a Redundancy Policy.</p>		
<b>Consultation</b>	SMG February 2022; LNCC Approval February 2022		
<b>Resource implications</b>	None identified		
<b>Risk implications</b>	<p>The policy is quite prescriptive which provides clarity but also sets an expectation on management in relation to restructuring. Therefore there is a risk of challenge should we fail to follow it fully and completely and therefore demands a high level of awareness at staff and Board level, particularly in relation to redundancies, or options for avoiding redundancy.</p>		

<b>Link with strategy</b>	Links to strategy are outlined in the policy, particular links to our vision and mission.
<b><a href="#">Equality, Diversity and Inclusion</a></b>	This policy aligns with the UHI Equality, Diversity and Inclusion Policy, and ensures compliance with relevant legislation, particularly in relation to Equalities Legislation, and best practice.
<b>Island Community Impact</b>	Summarise how any actual or potential (positive or negative) impacts on island communities have been considered in the development of the paper.
<b>Paper status</b>	<input checked="" type="checkbox"/> <b>Open</b> – The paper may be circulated to non-members of the committee and published online without restriction. <input type="checkbox"/> <b>Restricted</b> – The paper must not be circulated to non-members or published online until after the committee meeting. <input type="checkbox"/> <b>Confidential</b> - The paper must not be circulated beyond the committee members and should not be published online. [Please note papers may still be subject to Freedom of Information requests – see below].
<b><a href="#">Freedom of information</a></b>	Open If closed/ withheld, select date this will become 'open': Enter a date.

## Organisational Restructuring Policy and Procedure

Lead Officer (Post):	HR and OD Lead
Responsible Office/ Department:	HR
Responsible Committee:	HR&R
Review Officer (Post):	Judith Fenton
Date policy approved:	07/02/2022
Date policy last reviewed and updated:	N/A
Date policy due for review:	28/02/2023
Date of Equality Impact Assessment:	28/01/2022
Date of Privacy Impact Assessment:	N/A

Accessible versions of this policy are available upon request.

### Policy Summary

Overview	This policy outlines the principles Shetland UHI will adhere to in relation to Organisational Restructuring.
Purpose	To ensure Shetland UHI satisfies any statutory requirements. To provide all staff with clarity and guidance in relation to any Restructuring activity in scope of this policy.
Scope	<p>This policy applies to organisational change affecting any groups or individual members of staff in Shetland UHI. Organisational change is defined as planned structural changes that may lead to any significant change in job content, work location, team structures and/or number and grade of posts. Any scenario in which redundancies and/or the downgrade of posts are a possibility should be managed in accordance with this policy.</p> <p>This policy does not apply to minor or small changes that do not amount to a significant change to an employee's Job Description or Job Title.</p>
Consultation	Unions, UHI network

Implementation and Monitoring	This policy will be implemented by the HR&R Committee, all managers will have responsibility for ensuring it is adhered to. The SMG will be responsible for monitoring and reviewing this policy.
Risk Implications	Non-compliance with the policy renders Shetland UHI at risk of breaching relevant employment law legislation. A failure to implement the policy carries a risk that Shetland UHI does not take a consistent, equitable and evidence-based approach to any restructuring activity.
Link with Strategy	To insert
Impact Assessment	Equality Impact Assessment: attached
	Privacy Impact Assessment: N/A

## 1. Policy Statement

It is sometimes necessary for the organisational structure to change, these include changes to the way work is undertaken, job roles or the functional design of the organisation. This need can arise from changes in work priorities, planned or unplanned changes to funding and/or the need to ensure that work is organised in the most effective way possible to meet the strategic and operational needs of the organisation. There will also be other legitimate circumstances that lead to organisational change being considered.

In some cases, change will be minimal and/or may be wholly welcomed by those whom it affects. In others, the changes may be more substantial and/or have a potentially negative impact on job roles that needs to be managed carefully and sensitively. This policy sets out the principles of managing change fairly and transparently, to ensure that all organisational changes are handled appropriately and proportionately to their scale and impact.

## 2. Purpose

Shetland UHI values its staff and is committed to supporting and developing the workforce in times of stability and change. It recognises that organisational change may be unsettling for staff and aims to minimise any negative impacts through transparent and effective dialogue with both affected staff and trade unions. This policy aims to ensure that Shetland UHI meets its statutory responsibilities with respect to consultation and to encourage a culture where staff feel that changes are made after they have had an opportunity to input to matters that may significantly affect their working arrangements at Shetland UHI.

This is an overarching policy that should be read in conjunction with its constituent policies concerning redundancy avoidance and redeployment.

### 3. Scope

This policy applies to organisational change affecting any groups or individual members of staff in Shetland UHI. Organisational change is defined as planned structural changes that may lead to any change (other than those exceptions identified within section 4) in job content, work location, team structures, and/or number and grade of posts. Any scenario in which redundancies and/or the downgrade of posts are a possibility should be managed in accordance with this policy.

### 4. Exceptions

Minor or smaller changes, e.g., the move of a role from one area to another entailing a change in line management only, but where the role remains the same, formally fall outside the scope of this policy, though managers may wish to refer to the policy principles nonetheless to ensure staff feel such changes have been handled positively. Such changes may, however, be dealt with on a much more informal basis and typically within shorter timeframes.

### 5. Process of Organisational Change

Once organisational proposals have been formulated the appointed lead (usually the principal) along with Human Resources, will be responsible for ensuring employees are informed and for initiating formal consultation with the recognised Trade Unions. Full formal consultation with the Trade Unions will be initiated as early as possible regarding the restructuring proposals, and all legislative requirements will be fulfilled.

For each new post, a job profile and person specification will be created along with indicative grades and pay-scales. Any financial implications should be detailed. Essentially these should include comparison of the employee/employer costs for the old versus the new establishment and other costs/savings associated with the transition from the old to the new structure e.g. costs of retraining. The risks of the proposed restructuring must also be considered. In most cases the business case for the proposed changes should be documented and approved.

It will be the responsibility of the appointed lead to advise Human Resources if the restructure will result in a reduced number of posts or a need for lower graded posts in the proposed structure. This will allow an opportunity for consideration of the application of Human Resources strategies to minimise the impact and the provision of advice and guidance on the legislative processes that need to be applied.

Once the new structure has been agreed, the next step is to assimilate existing members of staff into new roles within the revised structure. As far as possible, Shetland UHI will seek to assimilate existing employees into the new structure in accordance with the job matching process detailed in section 8 of this policy.

### 6. Notification and Consultation

Consultation with the Human Resources and Remuneration Sub-Committee will be undertaken by Shetland UHI where a restructuring exercise or significant change in service provision is proposed that has substantial employee implications (as defined in Section 2).

Full formal consultation with the affected employees and Trade Unions will be initiated as early as possible, ideally before any decisions are made, in order that they have the opportunity to influence the decision-making process. All parties should have an explanation for the reason for the proposed change, the impact on employees and the service and the consequences of the change not being made regarding the restructuring proposals, and all legislative requirements will be fulfilled.

When undertaking consultation on structure proposals all relevant information should be shared to ensure the consultation is meaningful. Shetland UHI is committed to working in partnership with the Trade Unions when implementing change.

Where the proposed changes have potential to involve redundancies, communication will be undertaken in accordance with the Shetland UHI Redundancy Avoidance Policy. Proposals require authorisation by a member of the senior management group before they can proceed to consultation, and they will follow the submission of an appropriate business case. Written communication will be shared with Trade Union representatives and members of staff, and will ensure that there is a common understanding of the driver/s for change, the timescales involved, and the proposal that is being made. This will normally take the form of a formal paper which would also be submitted to LNCC, however email communication outlining the proposed change(s) may be sufficient in the case of more minor changes as identified within Section 3.

Effective communication is essential at all stages of the change management process. A communication plan, which details the process to be followed will normally be expected as part of any written proposals and should be standard practice in the case of major and complex change. It may also include the names of individuals who can provide further advice and information, details of how both formal and informal updates on progress will be communicated and time scales as appropriate.

## 7. Support Available to Employees

The following options are indicative of the support available to employees. Additional support may be made available and will be communicated. Shetland UHI is committed to developing and enhancing the offer of support to employees.

- Once placed under notice of redundancy, reasonable paid time off work will be granted to employees for the purpose of finding alternative employment (including attending job interviews) or making arrangements for training for future employment. An employee will be required to complete a Special Leave Request Form for authorisation by their line manager and provide evidence of attending interviews or arranging training.
- Repayment of monies paid to the employee such as training expenses, relocation expenses are waived in the event of redundancy, or where early retirement is deemed to be in the interests of the efficiency of the service and where no suitable alternative offer of employment is made, or there is a transfer to a suitable alternative employment post that does not attract such benefits.
- 1:1 confidential support is available through Human Resources to give advice as appropriate to help employees work through the process of change, discuss any feelings of uncertainty or worry they may have and to help employees stay focused and in control. The service can help to set career goals and plan for the future or address compounding personal issues. Counselling services are also available.

- Skills Development Scotland can offer Council employees redundancy support through Partnership Action for Continuing Employment (PACE). This is a Scottish Government support initiative that provides the support and guidance necessary to get people back into work as quickly as possible.
- 1:1 support is also available to employees via their respective union representative if they are a member

## 8. Definitions

**Consultation:** Employees and trade unions will be consulted regarding the purpose and detail of the change proposal and the steps to be followed in achieving the change. Individual consultation meetings will be undertaken with those directly affected by the proposals (i.e., those whose roles will change, or be at risk, if the proposals go ahead), to listen to any concerns from employees and to give them an opportunity to discuss the options available to them and for them to express their preferences or counter-proposals. Employees should be invited to bring, if they so wish, a trade union representative or a colleague who is employed by Shetland UHI to formal individual consultation meetings.

**Collective Consultation:** Where the potential for redundancies has been identified, there is a statutory duty under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended by the Trade Union Reform and Employment Rights Act 1993 to consult with the recognised Trade Union(s) about employees likely to be affected by the proposed dismissals or the measures to be taken in connection with those proposed dismissals. This applies even where those employees identified are non-union members.

**Equity and diversity:** to ensure fair treatment and provision of support by Shetland UHI, managers should consider any equity and diversity implications of the proposals before launching the change process. This will involve conducting an Equality Impact Assessment (EIA), which should be standard practice in cases of major organisational review, to ensure that proposed changes do not discriminate against any protected group. This includes equity, diversity, and inclusion considerations in relation to students or customers (where this is applicable) as well as the staff potentially affected by the proposal. Members of staff affected by change processes are also encouraged to raise any equity and diversity concerns that they may have during the consultation process. The completed EIA will be shared with all staff and recognised Trade Unions.

**Measures to avoid or minimise redundancy:** Shetland UHI is committed to exploring measures to avoid or minimise potential redundancies and to forward planning with respect to resources within the relevant area wherever this is possible. Where redundancies are proposed, due consideration will be given to ways of avoiding redundancy or reducing the numbers involved. Shetland UHI's Redundancy Avoidance Policy should be consulted for further guidance and information in relation to this.

**Redundancies involving 20 or more staff:** The principal of Shetland UHI has a duty to notify the Department of Business Innovation and Skills, on Form HR1, of proposed redundancies involving 20 or more employees at the same establishment in a 90 day period. In exceptional circumstances the HR1 form may need to be sent before consultation is undertaken with Trade Unions. The Trade Unions would already have been made aware of the impending requirement to issue the form. In this eventuality, where formal consultation has yet to occur, there should be no reference to consultation having taken place with the Trade Unions on the HR1

**Commitment to redeployment:** in accordance with Shetland UHI's Redundancy Avoidance Policy, support will be provided for employees who fail to secure a job as a result of a structural change or reorganisation.

**Training and development:** employees whose roles have changed significantly as a result of organisational change will be afforded reasonable opportunities to update and align their skills sets to the requirements of vacant positions.

**Clear outcomes and conclusions:** following the end of any consultation period, managers should ensure that staff are clear on the final decisions taken and what will be happening next, and when. Some communication may be to groups, others may be to individuals personally affected. Decisions will be confirmed in writing and collective and/or individual meetings will be held as appropriate.

In planning for organisational change, managers should seek advice from HR when developing their proposals, but particularly in developing an appropriate consultation and communication process and considering any equity and diversity implications. Managers will lead the consultation with staff and their representatives, supported by a member of the HR team.

### **Voluntary Redundancy (VR)**

Where circumstances are such that an organisation needs to make redundancies due to downsizing or restructuring, for example, the organisation may, as an early mitigating measure to avoid compulsory redundancies, invite employees to volunteer for redundancy and leave employment. Where VR is an option, the criteria related to this will be outlined as part of the business case and communications. The criteria will always include a statement to the effect that Shetland UHI will take in to consideration the need to retain sufficient staff to ensure continuity of service and that applications will be subject to this test. Applications for voluntary redundancy will be assessed against the criteria communicated to staff using a matrix. .

### **Voluntary Severance (VS)**

Voluntary severance may also be used as a means to mitigate compulsory redundancies and there is usually a financial incentive offered by an employer to employees. A voluntary severance does not constitute a redundancy, in that the job the person accepting the voluntary severance would have carried out may continue to exist even after they have left the organisation. A “voluntary severance payment” is any payment in connection with a mutually agreed and voluntary departure from employment by an employee which is not construed as a redundancy.

In considering requests for voluntary severance Shetland UHI will consider the following:

- that the request fits with its business needs
- the financial implications of the potential request
- any future requirement for the role and the skill set
- that the criteria contained in each of the relevant Shetland UHI policies are met

### **Job Matching**

Where the organisational change involves a process of assimilating existing members of staff into new roles within the revised structure, the following provisions, which should be read in conjunction with Shetland UHI's procedures on redeployment and redundancy avoidance, will apply.

There are 5 types of job matching:

1. Automatic matching to a new position: Where existing positions are changed it may be appropriate to automatically move an employee to a new position if it closely matches their existing position. Where an employee's current duties match at least two-thirds of the new position and is on the same grade, or one grade higher or lower, they will be eligible to be automatically placed into the position, providing they can attain any new competencies, by undertaking training/new qualifications if required, within an agreed timeframe. However, where more than one employee is eligible for automatic allocation to a single position, or the number of employees eligible is greater than the number of available new positions the position(s) will be ring-fenced (see below). When an employee has been matched to a new position there will be no trial period and Shetland UHI's redeployment procedures does not apply. Any member of staff who unreasonably refuses a matched position will forfeit their right to a redundancy payment.

Employees who have been temporarily undertaking higher duties or who are seconded to a role, for a period of less than 6 months, that meets the two-thirds threshold, will not be matched to the new post and must go through the competitive recruitment process.

2. Ring-fencing (oversubscription): This applies where there is no change between the role in the old and new structure, or it closely matches their existing position as defined at point one above, and there are fewer roles available than employees matched to the roles. An assessment process is required to

determine which employee(s) should be appointed to the role(s) but there is no requirement for a trial period. The assessment process to be used in this scenario will mirror Shetland UHI's normal recruitment process but employees will be required to complete an employee profile form rather than an application form. Following a successful assessment process, the employee is automatically appointed to the role without a trial period. If the employee declines the role, there is no entitlement to redundancy pay.

3. Ring-fencing (suitable alternative employment): This applies where the role in the new structure is not fundamentally the same but sufficiently similar in nature, whereby the employee meets the core requirements, to be considered possible alternative employment. The manager will identify possible alternative roles based on the requirements of the employee's current role as compared with those of the duties, responsibilities, skills required and grade of the new role(s). Roles that are one grade lower than the employee's current role will be considered, with appropriate pay protection. Roles that are one grade higher than the employee's current role may be considered but only where the employee could meet the requirements of the new role, with reasonable support and training, within an agreed timeframe. A selection process, that mirrors Shetland UHI's Recruitment and Selection policy and procedure is required to assess an employee's suitability for the role(s) and the appointment is subject to a trial period. If an employee unreasonably refuses an offer of suitable alternative employment, there is no entitlement to redundancy pay.
4. Restricted Competitive Selection: Restricted competitive selection applies where the role is not considered suitable alternative employment for any employees in the affected staff group. In these circumstances, employees from the affected staff group will be given an opportunity to apply for the role before it is advertised more widely in order to retain the employment of affected employees or as an additional way to mitigate redundancies. A selection process is required to assess an employee's suitability for the role(s), and the process adopted will align with our Recruitment and Selection Policy, and the appointment is subject to a trial period.
5. Open Competitive Selection: Open competitive selection applies after employees from the affected staff group have been given an opportunity to apply for the role or where no suitable internal candidates for the role have been identified. Any remaining vacant roles at this stage can be advertised and filled in line with the normal recruitment protocols.

#### **Other terms:**

**Trial Periods:** Where an offer of alternative employment is made, employees under notice of redundancy have a statutory right to a 4-week minimum trial period.

**Pay Protection:** If an employee accepts redeployment from a higher to a lower remunerated post, the current pay level will be 'red-circled' (see below) and pay protection will apply for two years as follows:

- 100% of difference between existing pay and top point of new grade for 12 months; and,
- 50% protection for a further 12 months, if required.

At the end of the pay protection period, the employee's basic salary will reduce to the highest point of the normal pay range for the new post.

**Travel Costs:** If the permanent place of work, as outlined within an employee's terms and conditions of employment, has been relocated by more than 5 miles, mileage payments will be made for any additional distance from their home to place of work for a period of 3 years.

**Red Circling:** This describes the practice of "freezing" the pay of employees who are paid more than the salary range of the post to which they transfer or are redeployed to. In practice, this means that the employee will not receive increments or other salary awards. This may occur following a reorganisation or a relevant transfer under TUPE.

**Retraining:** Employees who need to bridge skills gaps will be allowed to attend any available and free internal training offered by Shetland UHI once they have been notified that they are at risk of redundancy. Employees will also be entitled to a reasonable amount of paid time off to attend training that is relevant for future

employment. The employee should follow the normal processes for notifying his or her manager of planned time off.

## 9. Roles and Responsibilities

1. The Human Resources and Remuneration Committee has ultimate responsibility for ensuring that Shetland UHI complies with its statutory obligations in terms of meeting the requirements of relevant legislation.
2. The Senior Management Group is responsible for ensuring that the Organisational Restructuring Policy is fully implemented throughout Shetland UHI.
3. The Senior Management Group, all Managers and Team Leaders have a duty to ensure that Shetland UHI's policies including the Organisational Restructuring Policy are implemented within their sphere of activities and responsibility.
4. It is the responsibility of every manager to ensure that all his/her employees are aware of the policy.

## 10. Legislative Framework

- Trade Union and Labour Relations (Consolidation) Act 1992
- Employment Rights Act 1996 as amended
- Employment Rights Act 2004
- Employment Rights Dispute Resolution Act 1998
- Employment Relations Act 1999
- Equality Act 2010
- Disability Discrimination Act 1995
- Sex Discrimination Act 1975 and 1986

## 11. Related Policies, Procedures, Guidelines and Other Resources

- Redundancy Avoidance Control Policy
- Equality Diversity and Inclusivity Policy
- Redeployment Policy
- Recruitment and Selection Policy

## 12. Version Control and Change History

Version	Date	Approved by	Amendment(s)	Author
0	07/02/22	LNCC	none	Judith Fenton
1				
2				
3				
4				

**Appendix 4**

**Equality Impact Assessment Form**

Department/Section: HR and OD  
 Author/Owner: Judith Fenton

Date of Assessment: 31/01/2022  
 Signature: Judith Fenton

Review Due: 31/01/2022  
 Date: 03/02/2022

**Step 1**

Aim of proposed activity/decision/new or revised policy or procedure:

The Organisational Restructuring Policy applies to organisational change affecting any groups or individual members of staff in Shetland UHI. Organisational change is defined as planned structural changes that may lead to any significant change in job content, work location, team structures and/or number and grade of posts. Any scenario in which structural changes are planned should be considered in accordance with this policy.

New   
 Revised   
 Existing

Who will be affected?

This policy applies to all staff and therefore will affect any employee's who are affected by organisational change

Who will be consulted?

EIS-FELA  
 Unison  
 Senior Management Group  
 Staff (via their union reps)

Evidence available:

Relevant legislation; commitment to equalities under our equality, diversity and inclusion policy; current staff make up (full-time versus part-time); feedback from union members, line managers and senior management.

**Step 2**

Potential Positive/Negative/Neutral Impact Identified. P, N, N/I	Age	Disability	Gender Reassignment	Marriage/Civil Partnership*	Pregnancy and Maternity	Race	Religion or Belief	Sex	Sexual Orientation
Eliminating Discrimination	N/I	N	N/I	N/I	N	N/I	N/I	N	N/I
Advancing Equality of Opportunity.	N/I	N	N/I	N/I	N	N/I	N/I	N	N/I
Promoting Good Relations.	N/I	N	N/I	N/I	N	N/I	N/I	N	N/I

**Step 3**

Action to be taken:

In reference to 'Sex' we recognize that there may be an indirect impact on females staff who make up a significant proportion of our part-time employees. This risk is mitigated by the policy at point 8 under 'equity and diversity' and captured within the process that applies should an employee be redeployed or job matched where we are obliged to consider and respect the existing working hours of an employee when assessing how reasonable the case for redeployment or matching is.

In reference to Pregnancy and Maternity and Disability, we recognize that there is a potential risk of a failure to consult appropriately with any person on maternity leave during any restructuring activity. This policy covers the principals that apply and requires us to act equitably. We note that in the development of related policies - such as redundancy - we wish the policy to set out the methods of consultation that will apply to ensure this is meaningful for employees who are on long term sick leave or prevented from engaging in consultation in person for some other health related reason; and for employees on maternity leave or pregnancy related absence

**Summary of EIA Outcome – please tick**

- No further action to be carried out
- Amendments or changes to be made
- Proceed with awareness of adverse impact
- Abandon process – Stop and Rethink

Please forward completed EIA forms to Nicholas Oakley, Governance and Policy Officer.