

Chorley Borough Council

HOUSING TRANSFER EMPLOYMENT PROTOCOL

1. Introduction

This protocol is to be agreed between Chorley Borough Council ("the Council"), the RSL to which the Council is proposing to transfer its housing stock ("the RSL") and the Trade Unions representing the Council's employees. Any agreements arising from negotiations between the parties will form a local collective agreement. This agreement and any changes to staff or working arrangements at the Council are subject to and reliant upon a housing transfer ballot where the majority of tenants vote for a housing transfer.

2. Purpose of the Protocol

2.1 The purpose of the Protocol is to set out the general principles about:

- (i) the transfer of the Council employees to the RSL;
- (ii) how the employees to be transferred have been identified, and
- (iii) how the employees who are identified will be transferred to posts in the RSL.

2.2 At this stage the Protocol can set out only the general principles about employee transfer. It will not be possible to set out the detailed procedures until the organisation and staffing structure of the RSL has been agreed and until other policy decisions have been made.

2.3 References in this Protocol to "TUPE" refer to the Transfer of Undertakings (Protection of Employment) Regulations 1981 which give protection to employees when the undertaking in which they are working transfers.

3. Who will Transfer?

There are two groups of Council employees who will transfer to the RSL as follows:

Group 1 - those who will transfer to the RSL under TUPE because they are part of or assigned to the undertaking to be transferred and are referred to in this Protocol as the "TUPE Employees"; and

Group 2 – those who are not part of or assigned to the undertaking to be

transferred but will transfer to the RSL through an agreement between themselves, the Council and the RSL. These include employees who, although they are not part of the undertaking to be transferred, carry out some housing-related work, which may, in future, be carried out by the RSL rather than by the Council. It is implicit, however, that these employees wish to be transferred and there is a post for them to be transferred to. Such employees are referred to in this Protocol as the "Non TUPE Employees".

4. General Principles

4.1 Compulsory Redundancies

The Council is committed to the provision of quality, reliability and value for money services. It recognises that job security is an important factor in achieving this aim. As far as possible it has, and will continue to take, all reasonable steps to avoid compulsory redundancies. The RSL will not make any employees compulsorily redundant unless there is no other possible alternative and only after thorough consultation.

4.2 TUPE

All employees who will transfer will be protected by TUPE. In cases where TUPE does not legally apply (ie the Non TUPE Employees) the Council and the RSL will treat such employee as if TUPE applied when transferring employees to the RSL.

4.3 Equal Opportunities

All matters relating to the identification of and transfer of employees to the RSL will be dealt with fairly and consistently and regardless of an employee's age, gender, sexual orientation, race, ethnic origin, creed or disability.

4.4 Communication and Consultation

4.4.1 The Council and the RSL will keep the locally recognised Trade Unions and all employees informed of progress in carrying out the transfer process, and will consult fully on transfer issues.

4.4.2 If any matters arise which are not provided for in this Protocol the Council will consult through the [Corporate Employee Consultative Committee] and the RSL will consult with the [Employee Working Group] and the locally recognised Trade Unions with a view to agreeing how the matter will be dealt with.

4.4.3 It is anticipated that in most cases communication and consultation will take place through the [Employee Working Group] and then onwards to the Board of the RSL. The RSL will continue to recognise the Trade

Unions as the correct body to formally consult and negotiate on employees' issues.

4.4.4 Disputes, or Appeals which can not be resolved through this mechanism will be referred to the [Corporate Employee Consultative Committee] of the Council, where a standing item will appear on the Agenda to provide a mechanism for information giving to the rest of the Council employees.

5. Identifying the TUPE List

There will be a need to draw up two TUPE lists.

5.1 TUPE List 1 for TUPE Employees

It should be noted that the deciding factor for the inclusion onto the TUPE List 1 is the amount of time spent on "Housing" duties – this will be where an employee spends 50% of duties wholly or mainly on "housing duties". In instances where an employee's time spent on "Housing" duties is close to 50%, a decision needs to be taken in conjunction with the employee concerned. The final decision will be taken on the basis of the employee's job description, allocation of salary expenditure, time management sheets, details gained from their manager, themselves and any appropriate work colleagues.

5.2 Non TUPE List 2 for Non TUPE Employees

5.2.1 After the formal completion of the above list, the Council and the RSL will enter into negotiations about any other employees having regard to the staffing structure of the RSL and the staff structure of the Council post transfer. It is likely that there will be a number of service areas that have provided support to the Housing sector of the organisation and charged to the Housing Revenue Account.

5.2.2 The intention would be to highlight these areas and identify where possible the number of posts concerned and then to correlate these to the requirements of the RSL when its staff structure has been established.

5.2.3 It would be the intention that all such non TUPE posts that are available at the RSL be ringfenced in the first instance for Council employees. No Non TUPE Employee will be obliged to apply for the posts with the RSL. All employees who decide to apply and are successful in being offered a post with the RSL under this criteria will be afforded the same protection as set out by the TUPE Regulations.

5.2.4 All parties to this agreement recognise that where a post does not transfer to the RSL the costs of that post will then have to be met from the Council's General Fund.

5.2.5 The process of these transfers will be:

- (a) The employees in the service areas that will be affected will be made aware of the position available with the RSL along with the number and types of posts. When the RSL has determined the posts that they require Non TUPE Employees will be asked if they wish to apply. From then on it will be a matter of ascertaining those interested and correlating with what is available. Should there be more than one employee per post, then it will be a matter for interview and appropriate selection. Appropriate posts will be advertised internally.
- (b) It is agreed that the Council may consider the RSL's proposed staffing structure and may seek to agree changes to the proposed list in light of overall management costs remaining with the Council.

6. Terms and Conditions

All employees transferring will keep the same terms and conditions that they enjoy presently with the Council. In terms of the posts transferring the RSL will endeavour wherever possible to closely match the posts from which the employees are transferring. All parties to this agreement recognise and reserve the right to negotiate improved or enhanced terms and conditions of any or all staff at a later date.

6.1 Pensions

The Council will ensure that the RSL will apply to become an admitted body under the Local Government Pension Scheme Regulations, and will seek admitted body status in respect of the Council employees who transfer.

6.2 Continuity of Service

For the purposes of determining entitlement in respect of conditions of service the RSL will recognise continuous service with the Council and any previous employment under the Redundancy Payments (Modification) Order as continuous service with the RSL in respect of all Council employees who are transferred to the RSL.

7. Change of Office Accommodation

- 7.1 The RSL will at some stage have its own office accommodation separate from the Council's which will result in a change of workplace for some employees who transfer to the RSL .
- 7.2 The RSL undertakes to negotiate a scheme of disturbance and travelling allowances for people who are adversely affected by such a move.

7.3 The RSL will consider representations from Trade Unions on the relocation of staff to new office accommodation.

8. New Employees Joining the Council before the Transfer

8.1 The Personnel and Development Manager will ensure that all new employees who, because their duties and responsibilities fall within Group 1 or Group 2, are notified in writing on appointment that the job will/or is likely to transfer to the RSL. The Council will consult with the Shadow Board or Board of the RSL and the relevant Trade Unions on the filling of any vacancies that arise from [] onwards to keep those posts, vacant, filled on temporary contracts or through agency staff until the date of the transfer.

8.2 In the lead up to the transfer from [] any new employees employed directly by the Housing Division falling within TUPE list 1 will be employed on the express provision that they will be expected to work at any new office accommodation and as such no disturbance allowance or travelling expenses will be paid under any scheme which may be applied.

8.3 Any existing Council employee in the Non-TUPE list 2 who applies for a position under the ringfence arrangements will also be expected to work at the new office accommodation and as such no disturbance allowance or travelling expenses will be paid under any scheme which may be applied.

9. People who remain with the Council

The transfer of the housing stock to the RSL may affect some or all employees who remain with the Council. The Council will be reshaping and developing the Council's organisation to meet the needs of the future after the possible transfer of the housing stock. The Council will consult with staff and Trade Unions on these proposals.

10. Existing Council Policies

This Protocol will supplement all existing Council policies regarding personnel matters and is not meant to amend or replace any already in existence.

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