

BRISTOL CITY COUNCIL

HUMAN RESOURCES COMMITTEE

For Resolution

25th MARCH 2010

Report of: Service Director: Strategic HR & Workforce Strategy

Title: Residential Futures - Clarification of Ring Fence Arrangements & Dispute Hearing Minutes

Officer Presenting Report: Adrienne Lintzgy - HR Adviser (Strategic HR)

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RECOMMENDATION

This report is submitted to this Committee for its information, in response to the committee's previous resolutions regarding Residential Futures, and for its approval of the revised Management of Change: "Methods of Appointment" process set out in paragraph 4.2 below.

Summary

The resolutions were as follows:

"H&SC and HR to review the employment of agency staff within residential care, including the way in which vacancy management is being applied within the context of the Managing Change Procedure for Residential Futures"

Section 4 of this report clarifies proposals with regard to the management of vacancies and use of agency staff within EPHs.

"In hearing the above resolution, the GMB representative asked if the above resolution meant that the ring fences used by Management were being changed."

It is recognised that the resolution of 5th January did not specifically address

the ring fence issue. This matter is now dealt with in this report.

The Dispute outcome was:

- Health & Social Care Management and Human Resources Committee to review the employment of agency staff within residential care including the way in which vacancy management is being applied within the context of the Managing Change procedure for Residential Futures. A report would be brought to the March 2010 Human Resources Committee meeting.
- This matter was further discussed under “Public Forum” at this Committee's meeting on 25th February 2010.

(see appendix A: Minutes of the HR Committee - exempt)

The significant issues in the report are:

To provide clarification on the redeployment process and management of vacancies in homes during the implementation of the Residential Futures Programme. Further information regarding the 5 care staff who have not yet been redeployed following the closure of Hollybrook is set out in a separate (exempt) report to this Committee.

1. Policy

- 1.1 The Managing Change Procedure states that managers must seek to reduce the potential for dismissals by implementing controls/restrictions on recruitment to provide alternative job opportunities by:
 - (i) redeploying staff within the the department concerned, either permanently or into temporary posts as an interim measure
 - (ii) using corporate redeployment through the Council's New Opportunities Procedure phasing implementation where appropriate.
- 1.2 The authority has a legal obligation to provide priority access to other alternative employment for any employee displaced through redundancy
- 1.3 The authority's New Opportunities procedure and the job search support programme provide support for all qualifying employees (ie

employment contracts with more than one year's service) to search for and obtain alternative work within the City Council as explained at this Committee's February 2010 meeting. It is not always possible to find alternative work which meets personal aspirations and other commitments, including distance travelled, hours available, work type etc within the business needs of the City Council.

2. Consultation

2.1 Internal

Extensive consultation took place with trade union representatives regarding the closure of Hollybrook. The managing change arrangements which were adopted for the programme, both at Residential Futures sub JCC, and at separate meetings arranged specifically to seek to find a resolution.

Following extensive consultation with legal advisers, it was decided that managing change arrangements should be based on the closure programme, dealing with each home as it closed/changed.

Trade Union proposals which included council-wide ring fences were rejected. This resulted in a collective dispute being lodged, the outcome of which is above.

2.2 External

Not applicable.

3. Context

3.1 At the dispute the GMB raised concerns that possible redeployment options for residential staff were not being identified and opportunities for redeployment were being missed, thereby limiting opportunities to access local employment. They were particularly concerned that staff who would be displaced later in the programme would have reduced opportunities to find alternative work.

3.2 As a consequence, this Committee resolved that a review of agency care staff in residential homes would be carried out, with a view to offering posts filled by agency staff to the displaced care staff. The results of this review are set out below in an "exempt" report to this Committee.

3.3 This report also addresses the issue of 'ringfences' and methods of appointment to be used for future home closures.

4. Future Methods of Appointment

4.1 As each EPH is part of an extensive rolling programme of managing change the council is committed to ensuring that all affected employees are treated equitably and efforts are made to redeploy staff into posts that are considered reasonable alternatives. The basic principles were laid out in the Residential Futures document circulated in October 2009.

4.2 The Managing Change Policy: Methods of Appointment, as reported to this Committee's dispute hearing, are as set out in Appendix A. The following 5 stage revised arrangements are now proposed:-

(1) In the lead up to closure/refurbishment, all posts will be ringfenced in the first instance to existing staff within the specific workgroup based at that building, or in buildings where the services are being transferred from, eg Gleeson and Birchwood into Vetchlea. This is in line with usual practice across the council and also ensures that wherever possible staff have the opportunity to be ringfenced to posts at locations that are manageable for them. The normal managing change principles will apply during each EPH/Resource Centre review.

(2) after completion of (1) above, any displaced employees will be directly appointed to suitable alternative posts in other EPH's/RC's (which are filled by agency or temporary staff, whose contracts will be terminated).

(3) any relevant vacant posts within the EPHs/Resource Centres which arise subsequently through normal turnover will be offered through the New Opportunities Programme in line with the Council's obligation to offer posts to employees currently at risk. Whilst permanent appointments would be confirmed, start/transfer dates may need to be deferred to retain effective staffing levels at the home facing immediate closure. (Management will need to ensure that permanent employees in homes due for closure at a later stage in the programme, are not permitted to transfer to homes where Managing Change ring fence arrangements are imminent, as this would add to the potential number of displacees at this stage of the programme).

(4) if not filled, they will then be advertised within the overall EPH workgroup to those who are not at risk, but who may be at a later stage.

Information on these vacancies will be made available through the Residential Futures Staff Newsletter sent to staff employed at Council EPHs.

(5) thereafter, posts not filled internally, will be advertised externally. The use of agency staff, other than for very short term cover (eg sickness absence cover) will be discontinued - see paragraph 5 below.

- 4.3 To meet trade union concerns that staff whose workplace will close later in the programme may wish to maximise their future employment opportunities, it is proposed that where staff are not yet at risk but would wish to move ahead of their workplace closing, vacancies currently held by temporary or agency staff on a temporary arrangement in other homes which may be changing rather than closing, will be made available to them as set out in paragraph 4.2 above. As above, these will be advertised in the staff newsletter.
- 4.4 If ringfence arrangements for the closure of other EPH's/RC's have already been agreed and published, the existing substantive staff at that workplace would have a prior claim to the posts when the managing change review takes place. However consideration could be given to displaced employees already within NOPS who would be included in a secondary ringfence.
- 4.5 Employees who refuse an offer of "suitable alternative employment" (subject to appeal rights) are not entitled to redundancy pay.

5. Travel Expenses

- 5.1 At this Committee's previous meeting, concern was also expressed by the GMB regarding travel claims.
- 5.2 Arrangements have been made for payment of outstanding travel claims in all instances. Where claims have been made, payments were made at the end of January for Hollybrook staff for payments made to date, and payments will be made at the end of February for the next six months.

6. Training & Re-skilling Programme

It was agreed that a training and re-skilling programme would be implemented for staff affected by the Residential Futures programme. Further details can be found in Appendix B.

7. Pay Protection

7.1 One of the issues raised at the dispute hearing was whether “pay protection” is payable if employees are offered a post which has less hours than their former post. This has been clarified as follows:-

(a) providing the hours of the alternative post do not represent a reduction in contractual pay of 20% or more, the post can be deemed a “suitable alternative” appointment.

(b) pay protection will be awarded, and during the period that it applies, the redeployee will be required to continue to work the 'additional' hours in the new post. When the pay protection period ends, the employee will 'drop' to the usual hours of the post they are now filling.

8. Other Options Considered

Not applicable.

9. Risk Assessment

Whilst the covering of posts by agency staff is necessary to ensure the protection of posts for staff who will be at risk later on in the Residential Futures programme, it is recognised that the Council is seeking to discontinue the use of agency workers, particularly in the light of the Agency Worker Directive due to come into force in October 2011. This matter will be dealt with as part of the H&SC's Annual Workforce Plan.

10. Equalities Impact Assessment

Not applicable. The Managing Change and Pay Policies apply equally to all employees within the Council.

Legal and Resource Implications

Legal

Where a work group is at risk of redundancy the employer is under an obligation to use a fair and objective selection criteria to select those

employees who will be made redundant. An employer will also be required to seek suitable alternative employment for employees identified as being at risk of redundancy. If such employment is available and the employee accepts it, the risk of redundancy will be removed. However if suitable alternative employment is not available and/or the employee refuses to accept the alternative role, the employee will under law be liable to dismissal on grounds of redundancy. The Council is required to comply with its Managing Change Procedure.

(Advice from Husinara Jones for Head of Legal Services)

Financial

(a) Revenue:

The Medium Term Financial Plan for 2010 /11 includes revenue funding of £1m for the Residential Futures programme to cover all transitional costs (including any employee displacement and service re-provision costs associated with the programme during 2010/11). If staff are redeployed into vacancies, which are funded from within existing budgets, then there are no additional employee costs (except for where individual salary protection may apply). As agency staff costs include an agency overhead amount, these costs will no longer be incurred if agency staff are replaced by existing employees.

If additional travel costs are paid to redeployed staff, these will need to be funded from within existing Health and Social Care budgets.

(b) Capital:

There are no capital implications arising from this report.

(Advice from Denise Hunt, Finance Business Partner)

Land

Not applicable.

Personnel

As set out paragraphs 4, 5, 6 and 7 of this report.

Appendices

- Appendix A - Residential Futures: Managing Change Process
- Appendix B - Details on training programme
- Appendix C - Minutes of the HR Committee re: Redundancy Framework (HR 73.2/10)

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 Background Papers:

None.

Residential Futures - Management of Change

Principles

- This proposal has been subject to legal advice and is made in accordance with the Councils Management of Change Policy.
- Ring fencing arrangements throughout the programme will seek to cause minimum disturbance to work groups.
- Where possible posts offered will be within the service and matched to an individual's contractual hours.
- September 2008 Cabinet report stated the Council guarantee no compulsory redundancies for EPH/PwD staff. Every attempt will be made to identify alternative employment. It may not always be possible to find suitable alternative employment at a location/time of the employee's choice.
- The City Council's New Opportunities Procedure will apply. All employees 'at risk' will be given priority opportunity to apply for vacancies.
- Ring fences on a geographic basis have been considered and rejected because it is inequitable to give any one displaced employee an advantage over another simply on the basis where they may live.
- We will continue to vacancy manage to protect existing permanent staff also giving the same consideration to those at St Peters Hayleigh, Maesknoll who will be at risk in the future.
- Training will be available to all EPH/PwD staff for, amongst other subjects: Resource Centre methods of working, Dementia awareness, application preparation and Interview techniques training. Learning Opportunities will be provided to assist employees to develop their skill base to increase employability. This is actively being explored by Residential Futures Learning and Development Group.
- This proposal covers all groups of staff including the Officer group.

Managing Change Process

- **Newly Created Posts across the service (ie Senior Care Asst, Admin Asst, Domestic Supervisor, Activities Organiser)**

Method	Reason
1. Job Evaluation	All new jobs must be evaluated in line with the City Councils Pay Policy
2. Re-deployment council wide as these vacancies become available,	The City Council has a legal obligation to offer any new job first to those people Council wide – who have already been identified at risk of redundancy – ie in the redeployment pool – therefore they must have first priority.
3. Ring fence to all appropriate EPH/ PwD staff across city	If posts are not filled through redeployment, any other member of staff from within the Residential Futures programme will have opportunity to apply for these roles – whenever their current employment arrangements are due to end.
4. Any remaining vacancies will be frozen as part of the programme to assist employees find successful redeployment	

- **Westleigh Part Resource Centre January 2010**

Method	Reason
1. Ring fence existing staff in situ to Resource Centre roles with prior training and selection	There will be minimum change to jobs within this home, therefore existing job holders will remain in their existing jobs wherever possible, or will be ringfenced to similar jobs in the new structure
2 Those not successful remain in Westleigh EPH.	These are jobs currently being done by existing job holders
3. Advertise any unfilled vacancies through redeployment to any other employees identified as at risk	The City Council has a legal obligation to offer any vacancy (once ring fences have been completed)

Council wide	first to those people Council wide – who have already been identified at risk of redundancy – ie in the redeployment pool – therefore they must have 1st priority
4. Advertise any unfilled vacancies across EPH/PwD service.	If posts are not filled through redeployment, any other member of staff from within the Residential Futures programme will have opportunity to apply for these roles – whenever their current employment arrangements are due to end.
5. Freeze vacancies for future use of staff displaced from other homes as they close	These posts will be “unfrozen” and made available to any staff within the residential futures programme once they become “at risk”

● **Vetchlea Opens as new PwD Autumn 2010**

Method	Reason
1. Ringfence Birchwood and Gleeson staff. Selection process into new Vetchlea.	When Vetchlea opens, staff in Birchwood and Gleeson will become “at risk”. Their work and service users will move to Vetchlea. Therefore they will have first priority selection for those jobs. As there are 2 homes into 1, there may be staff reductions and therefore a selection process may be required.
2. Those not successful allocate through redeployment into other EPH/PwDs.	The unsuccessful employees will be “at risk” and in redeployment. They will have first priority for vacancies in other residential futures homes as part of the wider workgroup.
3. Advertise any unfilled vacancies through redeployment to any other employees identified as at risk	The City Council has a legal obligation to offer any new job first to those people Council wide – who have already been identified at risk of redundancy – ie in the redeployment pool – therefore they must have next priority
	If posts are not filled through

4. Advertise any unfilled vacancies across EPH/PwD service.	redeployment, any other member of staff from within the Residential Futures programme will have opportunity to apply for these roles – whenever their current employment arrangements are due to end.
5. Freeze unfilled vacancies for future use of staff displaced from other homes as they close	These posts will be “unfrozen” and made available to any staff within the residential futures programme once they become “at risk”

● **Broomhill/Bowmead/Brentry Resource Centres**

As these homes get partly converted into Resource Centres, the same process will be implemented as with Westleigh.- see above.

● **Hollybrook Opens as new PwD Winter 2011/12**

Method	Reason
1. Ringfence Greville staff. Selection process into new Hollybrook.	As Vetchlea - When Hollybrook opens, staff in Greville will become “at risk”. Their work and service users will move to Hollybrook. Therefore they will have first priority selection for those jobs
2. Those not successful allocate through redeployment into other EPH/PwDs.	The unsuccessful employees will be “at risk” and in redeployment. They will have first priority for vacancies in other residential futures homes as part of the wider workgroup.
3. Advertise any unfilled vacancies through redeployment to any other employees identified as at risk	The City Council has a legal obligation to offer any vacancy first to those people Council wide – who have already been identified at risk of redundancy – ie in the redeployment pool – therefore they must have next priority
4. Advertise any remaining vacancies across EPH/PwD service.	If posts are not filled through redeployment, any other member of staff from within the Residential Futures programme will have opportunity to apply for these roles –

	whenever their current employment arrangements are due to end.
5. Freeze vacancies for future use of staff displaced from other homes as they close	These posts will be “unfrozen” and made available to any staff within the residential futures programme once they become “at risk”

• Rockwell - extended with new Resource Centre 2012 (subject to Cabinet) – managing change process as for Vetchlea and Hollybrook

Method	Reason
1. Ringfence Coombe and Rockwell staff. Selection process into new Rockwell PwD and RC.	As Vetchlea/Hollybrook - When Rockwell opens, staff in Coombe will become “at risk”. Their work and service users will move to Rockwell. Therefore they will have first priority selection for those jobs
2. Those not successful allocate through redeployment into other EPH/PwDs.	The unsuccessful employees will be “at risk” and in redeployment. They will have first priority for vacancies in other residential futures homes as part of the wider workgroup.
3. Advertise any unfilled vacancies through redeployment to any other employees identified as at risk	The City Council has a legal obligation to offer any vacancy first to those people Council wide – who have already been identified at risk of redundancy – ie in the redeployment pool – therefore they must have next priority
4. Advertise any unfilled vacancies across EPH/PwD service.	If posts are not filled through redeployment, any other member of staff from within the Residential Futures programme will have opportunity to apply for these roles – whenever their current employment arrangements are due to end.
5. Freeze vacancies for future use of staff displaced from other homes as they close	These posts will be “unfrozen” and made available to any staff within the residential futures programme once they become “at risk”

● **St Peters, Hayleigh, Maesknoll (all close 2011/12)**

These homes will be treated as individual closures and subject to the Management of Change process. Under current arrangements, both staff currently employed there, and those who may be redeployed into these homes from other homes as they close/change are considered to have a long enough period of stable employment (2-3 years) to be considered as permanently employed. Therefore any redeployment into these homes during the change programme may be considered to be “suitable alternative employment”.

Once closure details are clear, management will determine the date at which employees in these homes will be considered to be “at risk”. At that point, all remaining employees within these homes, will have priority access to all other vacancies, including any posts still “frozen” for redeployment.

Change of employment/redeployment opportunities will be available as follows:

Method	Reason
1. Prior to these homes closing: when any of the other homes close/change if vacancies remain following redeployment,	Selection through competitive process if there is more than one applicant from within the residential futures service
2. At closure: All vacancies and frozen vacancies within the service	Redeployment - Priority status as employees “at risk”
3. At closure: All vacancies and frozen vacancies Council wide	Redeployment - Priority status as employees “at risk”

October 2009

Residential Futures - Clarification of Ring Fence Arrangements & Dispute Hearing

Residential Futures - Training and development provision

The Learning and Development needs of the Hollybrook staff were identified and responded to. During the months up to the the closure the following events were offered:

Job Fair - to enable staff to find out about opportunities within Health and Social Care but beyond Elderly Persons Residential Care and identified by the staff team (eg Home care, Out of Hours Home care, Intermediate Care, Home for Older People with Dementia)

Job Shadowing - to enable staff to shadow other employees for a period of time, in areas which they were interested in (eg Home Care, Out of Hours Home Care, Intermediate Care, Home for Older People with Dementia)

Support through Change - group and individual sessions to explore the process of change and how it was affecting Hollybrook staff. Unfortunately these sessions were not taken up by staff despite the trainer being flexible with times and dates of availability

Interview Preparation - group and individual sessions. These sessions were advertised, but not taken up by staff.

Dementia Awareness - to enable staff to have an increased awareness of the needs of older people with Dementia. These sessions were attended with the training well received.

Bristol City Council Learning Communities Team (LCT) ran a programme of development to support Hollybrook staff through the closure process . The programme leaders initially met with the staff team to identify their learning needs and then established a programme which included Basic Computer Skills, 'Working Life' and Literacy. This resulted in a programme running over several weeks.

The following arrangements are being put in place (subject to the Residential Futures Learning and Development Group and Project Board approval) to ensure full opportunities are provided to support the remainder of the programme:

The Residential Futures Learning and Development Programme detailed below identifies a structure for each Home team as changes are made along the Residential Future Time Line. However, this programme needs to run in conjunction with the generic training needs of the service. Currently the majority of this training is provided by Health and Social Care.

Stage 1

The Home Manager is identified and their PMDS learning plan established. It is expected that the Home Manager will attend training concerning:

- Leadership/Management
- Mental Capacity Act & Deprivation of Liberty Safeguards
- Working with Relatives
- Assertiveness

- Assistive Technology

In-house shadowing will be encouraged and a named buddy will be offered.
Visits to other outside providers (eg Rehabilitation Centre or Home for People with Dementia - PwD)

The Home Manager will be encouraged to research current care trends in services for older people (eg through Research in Practice for Adults - RiPfa, and My Home Life run by Help the Aged).

Dependent on whether they are appointed to manage a Home for People with Dementia (PwD) or Resource Centre they will also be expected to undertake some learning concerning Dementia Awareness and/or Re-ablement

Stage 2

The Home Manager and Team Manager compile an individual home training plan prior to consultation of change and identify how these learning needs are to be met.

Stage 3a

At least six months before each Home closure or change the Bristol City Council LCT will run a programme to include an informal development needs analysis followed by short courses as identified by the learners but must include:

Confidence building

Skills for Life Development (Literacy and Numeracy)

Future employment skills include job application and interview skills training (see below)

Stage 3b

An induction programme will be devised and co-ordinated by the Project/Team/Home Managers to include:

Team Building/Development

Clear objectives of Service and how it fits in to the Residential Futures Project, the vision of Bristol City Council and national Policy drivers.

Coping with Change - loss and bereavement/transition through relationships

Person Centred Care

Orientation of building

If preparing to work in a PwD staff will require training concerning working positively with older people with Dementia

If preparing to work in a Resource Centre staff will require training concerning re-ablement and working within a short-term relationship framework with residents.

Other Initiatives Running in Parallel

- Dementia Champions

The development and training of Dementia Champions has been proposed within our

Residential Homes The role of these Champions is to be seen as a resource and advisor within the home setting. They would undertake a series of learning which would involve training sessions, workshops, and action learning sets. They would also have a tool kit to support them in their role within the Home and would receive peer support beyond their Home base. Their Line Managers would also be provided with a series of learning opportunities to support the Champion. This initiative would initially be facilitated by Health and Social Care Learning and Development Section with the view to then be self organising.

- Future Employment Skills Development

Together with the work of the LCT, Health and Social Care Learning Development Team have been asked to provide interview skills training and Corporate Learning are able to provide training to complete application forms, therefore producing a joined up approach. It is hoped that TU Learning Representatives will also be able to become involved .

- Trusted Assessors

A Trusted Assessor is a member of staff who are part of a care team. They have had specialist training to identify 'low level' aids and adaptations in order for staff to meet service users care needs. The Trusted Assessors Programme has been running within Health and Social Care during the last year. It is envisaged that these Assessors would be trained within our Residential Homes.

**Residential Futures - Clarification of Ring Fence Arrangements
& Dispute Hearing Minutes -**

BRISTOL CITY COUNCIL

Extract from

**MINUTES OF THE MEETING OF THE
HUMAN RESOURCES COMMITTEE
HELD ON 25TH FEBRUARY 2010 AT 2.00 PM**

- P Councillor Comer (in the Chair)
- P Councillor Bees
- A Councillor Eddy
- P Councillor Negus
- P Councillor Popham

HR

73.2/10 REDUNDANCY FRAMEWORK

The Committee considered a report of the Service Director - Strategic Human Resources and Workforce Strategy (agenda item no. 6) noting the framework for redundancies following a dispute heard in January 2010.

It was confirmed that although it had been previously stated that there would be no compulsory redundancies in relation to the Residential Futures programme, it was clarified that the Redundancy Framework agreed by the HR Committee stated that redundancies would only be served when all other efforts had been exhausted.

It had been hoped that within the changes there would be sufficient opportunities to keep people in employment. Discussions with employees revolved around whether alternative employment offered was considered 'suitable' in that it met the needs of individuals. The definition used for suitable alternative employment is the legal definition and includes consideration of job content, remuneration, status, hours, and location.

Further information would be presented to the next meeting of the Committee.

RESOLVED - that the report be noted.