



**CabinetOffice**

**&**

**National Trade Union Committee**

## **Protocol for handling surplus staff situations**

**April 2008, updated July 2014**

### **Foreword**

Since the protocol for handling surplus staff situations (Protocol) was launched in 2008, Civil Service Resourcing has been established as part of Civil Service HR. The Protocol's operational responsibilities now fall to Civil Service Resourcing.

Changes have also occurred on the trade union side, with the National Trade Union Committee (NTUC)\* taking the role of the former Council for Civil Service Unions (CCSU).

The Regional Coordinator role previously the responsibility of the Cabinet Office is now fulfilled by Civil Service Local.

In December 2012 the Department for Business Innovation and Skills (BIS) announced plans to change the minimum statutory consultation periods for redundancies effective from April 2013. In light of this the formal Meaningful Consultation period in the protocol has been changed. Revisions have also been made to the Period of Reflection process as a result of the changes to the formal Meaningful Consultation period. This will now be known as the Redundancy Mitigation Review. These changes do not diminish departmental responsibility to redeploy surplus staff.

Cabinet Office, Civil Service Resourcing and NTUC continue to maintain a strategic overview of the use of the Protocol during Civil Service restructuring. Civil Service Resourcing has responsibility for case by case operational implementation of the Protocol, together with or in consultation with the NTUC.

\* - For the purpose of the protocol the National Trade Union Committee comprises PCS, Prospect, POA and FDA

## Introduction

The Cabinet Office and the National Trade Union Committee, recognise that the Government is committed to continuous improvement in delivery of public services to citizens and to providing value for money to taxpayers. This may affect how public services are delivered, and the work, jobs and employment conditions of civil servants.

Civil Service Resourcing and the NTUC are committed to work together to ensure that, as the Civil Service transforms and adapts to change, the interests and concerns of employees are managed well. This process reflects the Civil Service's commitment to be a good employer.

This protocol provides a corporate approach across the Civil Service and relevant NDPBs that will help to ensure that best endeavours are used to avoid recourse to compulsory redundancies. In 2008 the protocol was first agreed by the Cabinet Office and the General Secretaries of the CCSU and endorsed by Permanent Secretaries, the Cabinet Secretary and Cabinet Office Ministers.

In situations where jobs may be transferred out of the Civil Service, for example as a result of outsourcing and privatisation exercises, there is separate guidance that departments should follow:

“Good Practice for Managing the People Consequences of Outsourcing and Privatisation”

[http://resources.civilservice.gov.uk/wp-content/uploads/2011/09/Good\\_practice\\_tcm6-2419.doc](http://resources.civilservice.gov.uk/wp-content/uploads/2011/09/Good_practice_tcm6-2419.doc)

and

“Cabinet Office Statement of Practice on Staff Transfers in the Public Sector”

[http://resources.civilservice.gov.uk/wp-content/uploads/2011/09/stafftransfers2\\_tcm6-2428.pdf](http://resources.civilservice.gov.uk/wp-content/uploads/2011/09/stafftransfers2_tcm6-2428.pdf)

1.	<b>Handling surplus staff –Roles/Responsibilities and the Redundancy Mitigation Review</b>
Aim	1. To provide a Civil Service and relevant NDPB wide approach to handling surplus staff situations.
Benefits	2. A corporate approach that ensures that: <ul style="list-style-type: none"> <li>a. Best endeavours are used to avoid the need for recourse to compulsory redundancies for those people who want to continue their Civil Service careers.</li> <li>b. Opportunities for redeployment both within and across departmental boundaries are maximised.</li> </ul>
Role of Departments with surplus people	<ul style="list-style-type: none"> <li>3. Provide Civil Service Resourcing an overview of situations that could result in compulsory redundancies (numbers, grades, location, and timing) as soon as they are forecast. Discussions with Civil Service Resourcing should focus on redundancy mitigation measures being put in place.</li> <li>4. Inform affected people of plans as early as possible and at all stages and fully manage their expectations. Ensure proposals are subject to Equality Assessments and that monitoring is ongoing. Relevant public sector equality duty documents on the protected characteristics can be found at: <u><a href="#">EHRC - Public sector equality duty</a></u></li> <li>5. Engage with appropriate trade unions as outlined in departmental employee relations agreements or if there is no TU representation with the appropriate staff representatives</li> <li>6. Inform other departments and the Regional Coordinator of surpluses (numbers, grades, location, and timing) as soon as they are confirmed and as plans develop.</li> <li>7. Positions filled by agency workers, consultants, temporary staff and similar appointments should be reviewed to establish if these would be suitable for permanent members of staff whose jobs are at risk.</li> <li>8. Prior to formal Meaningful Consultation (see para 21 for details), discuss with appropriate Trade Unions redundancy avoidance measures, including redeployment within department, redeployment across departmental boundaries, natural turnover and voluntary redundancy.</li> <li>9. Work closely with the nominated Regional Coordinator, arrange for all affected staff to have access to the Civil Service Jobs site where appropriate and provide dedicated support in their job search activities.</li> <li>10. Set up close links with other departments using the various networks and ensure that all efforts are taken to overcome barriers to movement across</li> </ul>

	<p>departmental boundaries to facilitate sensible transfer opportunities.</p> <p>11. Publicise departmental commitment to support surplus staff into other vacancies both within department and across departmental boundaries.</p> <p>12. Arrange for all affected staff to receive support. This will vary with departments' circumstances, but could include:</p> <ul style="list-style-type: none"> <li>a. Information about the range of options available including those in other government departments;</li> <li>b. Support to staff in seeking other local jobs if this is what they want, encouraging and assisting them to prepare for any career move;</li> <li>c. Help in CV writing and preparing for interviews, as appropriate;</li> <li>d. Refresher skills training where necessary.</li> </ul> <p>13. Offer voluntary redundancy as defined in the Civil Service Compensation Scheme. The selection criteria used for voluntary schemes to centre on the balance of skills and competencies required for future business delivery and appropriate costs.</p> <p>14. Departments should be prepared to post surplus people within their contractual entitlements and obligations. In making such postings departments should apply the following criteria:</p> <ul style="list-style-type: none"> <li>a. Business need for moving individual;</li> <li>b. Lack of viable alternatives;</li> <li>c. Wording of department's staff handbook and letter of appointment;</li> <li>d. Individual circumstances;</li> <li>e. Legal advice.</li> </ul> <p>15. Departments should consider offering reasonable alternative employment in a location that may be outside normal contractual mobility (including other departments) to mitigate against redundancy.</p> <p>16. The following criteria should be applied to ascertain whether alternative job offers can be considered to be reasonable:</p> <ul style="list-style-type: none"> <li>a. New job requires a balance of existing skills and competencies or ones that could be developed;</li> <li>b. Similar grade, reward and terms and conditions;</li> <li>c. Retraining/re-skilling provided where necessary;</li> <li>d. The use of a trial period where an offer is accepted;</li> <li>e. Individual circumstances;</li> <li>f. Legal advice taken into account.</li> </ul> <p>17. Offers will only be deemed reasonable where they can guarantee</p>
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	<p>continuity of employment.</p> <p>18. It is particularly important that departments, and TU colleagues, have early face to face conversations with affected staff to seek clarity on what they want to do.</p> <p>19. Departments will need to ensure that they meet the requirements of their employee relations frameworks, as well as the need for individual consultation.</p> <p>20. Departments <b>must</b> notify Civil Service Resourcing at the earliest opportunity where compulsory redundancies appear to be unavoidable. Civil Service Resourcing will provide advice and support to departments to enable redeployment and agree what evidence is required for a Redundancy Mitigation Review.</p> <p>21. If it becomes clear compulsory redundancies are unavoidable, the department should notify every employee who is at risk in writing. The department will begin a formal Meaningful Consultation Period with departmental Trade Unions the minimum length of which is dependant on the numbers of those at risk (although departments are able to extend this period where this is enabling redeployment).</p> <ul style="list-style-type: none"> <li>• 100 or more staff at risk - there should be a minimum period of at least 45 days</li> <li>▪ 20 - 99 staff at risk -there should be a minimum period of at least 30 days;</li> <li>▪ 1-19 staff at risk – there is no formal requirement for formal Meaningful Consultation with Trade Unions, although active discussions are encouraged.</li> </ul> <p>22. <u>Robust efforts must continue</u> to avoid issuing compulsory notices during this period and voluntary redundancy offered to all those at risk as set out in the guidance on the CS Compensation Scheme.</p> <p>23. The changes to the minimum formal Meaning Consultation periods should not affect departmental approaches to defining the scope of a unit of redundancy. Departments are expected to make reasonable decisions in this regard that will act to support redeployment.</p> <p>24. Following the issue of any Compulsory Redundancy notices departments should continue to help those people find a Civil Service position – if they want to continue their CS careers.</p>
Redundancy Mitigation Review	<p>25. The Redundancy Mitigation Review will take place after completion of the formal Meaningful Consultation period. Where 1-19 staff are at risk and a department has opted not to start formal Meaningful Consultation Civil</p>

<p>Meetings</p>	<p>Service Resourcing will work with the NTUC to agree when best to hold a redundancy mitigation review.</p> <p>26. Unless otherwise agreed by Civil Service Resourcing and the NTUC, the Redundancy Mitigation Review is a series of at least two meetings designed to review the individual cases in question and examine if there are any further options to avoid compulsory redundancy.</p> <p>27. It is attended by senior members of departments (usually HR officials) and departmental trade union representatives, with Civil Service Resourcing and NTUC oversight to ensure that the Protocols have been fully applied.</p> <p>28. These meetings may take place face to face, or via teleconference as appropriate to the size and complexity of the situation.</p> <p>29. For each case departmental HR will explain what efforts have been taken to avoid unnecessary redundancies, and the group will discuss whether there are any feasible options to avoid using public money to issue compulsory notices.</p> <p>30. If it can be evidenced to Civil Service Resourcing and the NTUC the protocols have been followed and redeployment is still not forthcoming the decision to issue a notice can be made at the conclusion of the process. If enforced compulsory redundancy notices are required this will be noted by NTUC.</p> <p>31. Issues to be covered during Redundancy Mitigation Review meeting(s) include:</p> <ul style="list-style-type: none"> <li>a. Introduction by Civil Service Resourcing and scene setting</li> <li>b. Context and efforts made by the department across the Civil Service and relevant NDPBs to avoid recourse to compulsory redundancies</li> <li>c. TU response, including suggestions for further action as appropriate</li> <li>d. Discussion (all parties) on relevant people issues to develop appropriate processes that will help in avoiding compulsory redundancies</li> <li>e. Clarity on the way forward including an agreement to further actions and ongoing discussions to avoid compulsory redundancy</li> <li>f. Summary by Civil Service Resourcing</li> </ul> <p>32. An acceptable outcome, as seen by management, Civil Service Resourcing and the trade unions, to the Redundancy Mitigation Review</p>
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	<p>process might be:</p> <ul style="list-style-type: none"> <li>a. The redundancy issue has been resolved through one of the following: <ul style="list-style-type: none"> <li>a. People accepting voluntary terms within the rules of the Civil Service Compensation Scheme;</li> <li>b. Being posted within their contractual obligations;</li> <li>c. Being redeployed, within their department or to other departments;</li> <li>d. Being offered what are agreed as reasonable offers.</li> <li>e. People acquiescing to being made compulsorily redundant</li> </ul> </li> <li>b. All steps have been taken under the protocol to avoid the issue of notices of compulsory redundancy and therefore issuance of a notice is required.</li> </ul> <p>33. Refusal by a member of staff, at risk of receiving notice of compulsory redundancy, of what is seen by departmental management, Civil Service Resourcing and the trade unions as a reasonable offer may lead to conclusions which could include that the individual has acquiesced to the acceptance of compulsory redundancy.</p> <p>34. If notices are to be issued departments should commence administrative procedures that include informing/seeking approval from their Permanent Secretary or Minister as appropriate. Departments should ensure relevant Trade Unions are notified along with affected staff, This will take at least 7 working days.</p>
<p>Role of Recruiting Departments</p>	<p>35. Share details of forthcoming recruitment exercises with Regional Redeployment Networks and Regional Coordinators at the earliest opportunity.</p> <p>36. Surplus staff should be given priority during the vacancy filling process as outlined in the rules of the National Vacancy Filling Scheme. Any dispensations to the above must be agreed with Civil Service Resourcing.</p> <p>37. Inform other departments and Regional Coordinators through the Redeployment Networks, of the details of all vacancies (numbers, grades, location, and timing).</p> <p>38. If significant numbers of vacancies exist consider recruitment drives/road shows targeted at departments – Regional Coordinators/Civil Service Resourcing can help with this.</p> <p>39. Ensure that appropriate management information is collected and</p>

	continue to seek simple solutions.
Role of Trade Unions.	<p>40. The recognised departmental trade unions will be involved on behalf of the people identified as being at risk of redundancy in departments and relevant NDPBs. Depending upon the circumstances this may well be one or more unions or indeed all of the recognised unions.</p> <p>41. Departmental trade unions will be involved in redundancy mitigation discussions as outlined in employee relations frameworks prior to formal Meaningful Consultation (where applicable)</p> <p>42. The Redundancy Mitigation Review chaired by Civil Service Resourcing will be conducted with the trade unions acting through the NTUC. The meeting is attended by senior members of departments (usually HR officials) and departmental trade union representatives, with Civil Service Resourcing and NTUC oversight to ensure that the Protocols have been fully applied</p> <p>43. The unions will as appropriate provide proactive advice and guidance to their members subject to this protocol.</p>
Role of Regional Coordinators	<p>44. Support departments and Agencies within the region in the handling of their surplus staff through the provision of effective information and brokerage.</p> <p>45. Work together with stakeholders to resolve career brokerage issues</p> <p>46. Inform Civil Service Resourcing of information on surpluses/vacancies including, where appropriate, wider public sector opportunities.</p> <p>47. Share good practice.</p> <p>48. Chair/facilitate Redeployment Networks to share workforce planning, offer advice and encourage networking between departments.</p>
Role of Civil Service Resourcing	<p>49. To ensure that good practice on operational management of the protocol is shared across departments</p> <p>50. Work with departments and Regional Coordinators to ensure that all HR contacts have access to available information on departmental surpluses and vacancies, nationally and within regional context.</p> <p>51. Monitor and review developing practice and report periodically to the central government group of Permanent Secretaries responsible for employee relations (with Cabinet Office)</p> <p>52. Support departments in their opening up of opportunities across the wider public sector (e.g. front line posts).</p> <p>53. Work alongside the NTUC</p>

	<p>54. Facilitate the Redundancy Mitigation Review meetings.</p> <p>55. Actively encourage departments to attend the Regional Redeployment Meetings.</p> <p>56. Keep the Minister responsible for the Civil Service and Head of Civil Service informed of all significant developments.</p>
Role of the Cabinet Office	<p>57. To establish and maintain commitment to the corporate protocol</p> <p>58. Monitor and review developing practice and report periodically to the central government group of Permanent Secretaries responsible for employee relations with Civil Service Resourcing.</p> <p>59. Work alongside the NTUC.</p> <p>60. To commission Civil Service HR to develop appropriate policies that will help in avoiding compulsory redundancies.</p> <p>61. Keep the Minister responsible for the Civil Service and Head of Civil Service informed of all significant developments.</p>

<b>2.</b>	<p><b>Advice on terms and conditions of service</b></p> <p>1. Clear and comprehensive advice to departments on Civil Service terms and conditions of service to facilitate redeployment opportunities.</p>
Aim	<p>2. Departments are effectively supported in their management of relocation, mobility and redundancies and their onward advice to staff.</p>
Benefits	<p>3. A broadly common approach across the Civil Service in handling conditions of service issues. This will enable departments to make informed policy decisions and support them in their engagement with trade unions. Departments and relevant NDPBs should work closely together to overcome any redeployment barriers.</p>
Role of Departments	<p>4. Implement, reasonably and consistently, departmental terms and conditions.</p> <p>5. Provide advice to staff.</p>

Role of Civil Service Resourcing	<p>6. Work to resolve local efficiency &amp; relocation employer issues with all stakeholders, Raise issues of a national significance at HR Director meetings</p> <p>7. Engage the NTUC in the development and promotion of protocol and central advice.</p> <p>8. Provide advice to departments to enable appropriate cost effective solutions to be utilised to enable redeployment</p>
Role of the Cabinet Office	<p>9. Engage the NTUC in the development and promotion of protocol and central advice.</p> <p>10. Commission Civil Service HR to provide policy advice to departments and work with them in sharing best practice.</p>

<b>3.</b>	<p><b>Career advice and support</b></p> <p>1. Career advice and support to be offered, as appropriate, by departments to staff to help them prepare for future career moves.</p>
Aims	<p>2. Provide specific career support for Civil Servants affected by the changes.</p> <p>3. Offer appropriate training to staff to help to prepare them for their future career.</p>
Benefits	<p>4. Professional advice and assistance in helping the transition of staff being redeployed or released.</p> <p>5. Focus on potential employment opportunities.</p> <p>6. Reduced impact on staff of changes and improved skills.</p>
Role of Departments	<p>7. Enable all surplus staff to have an understanding of the range of options available to them and the role each individual is expected to play in the process.</p> <p>8. Where appropriate, encourage and assist staff in preparing for any career move.</p> <p>9. Offer refresher skills training where necessary.</p> <p>10. Engage local Trade Unions.</p>
Role of Regional Coordinators	<p>11. Provide advice and guidance to departments on brokering moves if appropriate</p>

<p><b>4.</b></p>	<p><b>Oversight of the Protocol:</b></p> <p>12. To be undertaken by key stakeholders including:</p> <ul style="list-style-type: none"> <li>• The central government group of Permanent Secretaries responsible for employee relations,</li> <li>• Cabinet Office, Civil Service Resourcing, and NTUC</li> </ul>
<p>Role of Key Stakeholders</p>	<p>13. If notices of redundancy are issued NTUC will raise any issues of concern about non adherence to this protocol with appropriate senior officials and Ministers.</p> <p>14. The objective in all discussions within the context of this agreed protocol will be to avoid the issuing of notice of compulsory redundancy to staff who have clearly demonstrated that they wish to continue their career in the Civil Service or NDPBs.</p> <p>15. The Cabinet Office/Civil Service Resourcing will provide assurance, as appropriate, to the Minister for the Civil Service and the Head of the Civil Service.</p>