

Redeploying employees

(Document correct as at 2nd April 2020)

Scope:

This document has been prepared to support of a series of questions facing public services organisations relating to various pay and terms and conditions of employment issues. This document is stored on the PPMA Coronavirus Resource Hub – [PPMA Community Page](#).

Definition¹:

For the majority of organisations, redeployment is considered in the context of organisational change, where employees may be being displaced and looking for suitable offer of alternative employment.

Impact of Co-vid 19:

The response to Co-vid 19 has required that public service organisations:

- On a temporary basis, transform workforces so that they are able to work remotely (ensuring that Government's requirements on social-distancing etc are adhered to)
- Ensure that critical, front line services are delivered
- Redeploy staff so that they are able to fill positions that are vacant due to staff illness (self-isolation), or 'new' temporary roles that are needed to support critical services and broader public service organisations.

For an increasing number of Local Authorities, Co-vid 19 has meant that non-statutory services have been temporarily suspended. Whilst this may imply that there is automatically additional capacity in the organisation to support statutory and other services that are deemed to be necessary; the reality is that there is a higher level of absence in the public service workforce than normal. This is because:

- Employees may fall under the Government's highly vulnerable category, be required to self-isolate (or shield for 12 weeks) but able to work
- Employees may fall under the Government's highly vulnerable category, be required to self-isolate (or shield for 12 weeks) and be showing the signs of Co-vid 19 but well enough to work
- Employees may fall under the Government's highly vulnerable category, be required to self-isolate (or shield for 12 weeks) and be showing the signs of Co-vid 19 and not well enough to work

¹ Employers must always ensure that they are adhering to current employment law and organisation policies and local agreements as far as possible. In supporting Co-vid 19, many policies are needing to be changed. These changes should always be discussed – as far as is possible – with local Trades Union or other Employee representatives.

- Employees may have the Co-vid 19 virus and be unable to work
- Employees may have the Co-vid 19 virus but be able to work (albeit remotely)
- Employees may have unanticipated caring responsibilities because of the virus and may not be able to work as normal
- Employees may have to self-isolate if a member of the household has the Co-vid 19 virus and able to work.

And these employees could be defined as key workers, presenting additional challenges to employers.

Issues arising:

A range of issues has arisen (and may continue to arise) for public services:

1. Can I ask employees to redeploy to other roles?
2. Can I *require* people to *redeploy* to ensure that they can continue to work?
3. Can I redeploy people to critical front line services where they may not have all the skills, knowledge and experience we would normally require?
4. Can I redeploy *agency staff and casual staff*?

How has Public Sector responded?

1. With respect to redeployment, most organisations have asked their employees to volunteer for redeployment. Additionally, PPMA members have asked their employees to consider redeploying to the broader public service economy. This includes supporting the NHS, voluntary organisations etc, wherever a critical need exists.

For some organisations, there has been a gap (ranging in severity) in understanding the skills that employees have outside their current roles. Co-vid 19 has therefore been an opportunity for organisations to capture information that will support longer term Strategic Workforce planning. There are a range of benefits to this work including, but not limited to:

- Building organisation resilience and the capability to support future crises
- Enabling more effective career and succession planning
- Ensuring more effective spend of learning and development budgets.

A range of deployment questionnaires have been included in the Redeployment section of the PPMA Coronavirus Resource Hub – [PPMA Community Page](#). The questions included will depend on an organisation's context. Covering communications have also been included as examples.

With respect to requiring an employee to redeploy, ideally an employer and employee will jointly agree to redeployment. However, where all employees who had voluntarily agreed to redeploy into other roles have been, an employer may face needing to require employees to redeploy.

Given the guidance from Government that it does not expect many Public Sector organisations to apply to the Coronavirus Job Retention Scheme², employers need to ensure that the maximum number of staff who are able to work, can.

From an employment law perspective, there is an implied term in all employment contracts that says that an employee will follow lawful and reasonable instructions from their employer. Clearly in order for them to be reasonable, they must be lawful. (And for Co-vid 19, they must take into account Government guidance).

In addition, we typically include a reference to any 'other duties as may be required' in either contracts or job descriptions.

If you need to redeploy an employee and believe that reliance on lawful and reasonable instructions is needed (as opposed to a voluntary agreement) an employee who refuses may be subject to disciplinary action. But an employer would have to consider the reasons for the employee's refusal and be prepared to undertake disciplinary action if the refusal was not deemed to be reasonable.

2. It may be the case that some employers find themselves in the situation that they are having to redeploy employees into positions where they may have little or no experience.

An organisation's specific needs must always be taken into account. The employer should look at what training is needed to ensure that people can redeploy effectively; and what training and ongoing support can be provided. Talking to the employee – and of course Trade Unions is critical and ideally an overarching approach to redeployment will have been discussed early on as employers plan CO-vid 19 support activities.

As always the employer must be able to show that a management instruction is lawful. This may be easier to do for more 'generic roles'. An employee can always challenge whether an instruction is unreasonable but would need to provide reasonable evidence showing why.

3. With respect to instructing redeployment to critical front line roles this presents more challenges to consider.

For example, if redeployment was required into a role where the use of Personal Protection Equipment (PPE) was required and this was not available, this could be considered as an unreasonable instruction.

Public Health England has updated it's PPE advice for people working in a range of care environments and employers must be aware of those. It is also recognised that the supply of PPE is a critical issue for many organisations. And many have escalated this to Government.

4. With respect to casual and agency staff, they can be included in any requests for volunteers to redeploy. The extent to which this is needed will depend on organisation and locality needs.

PPMA Comment:

- It would be helpful for all organisations to have a clear perspective on what constitutes a reasonable management instruction and ensure that managers are fully aware.

² See the Furlough guidance included on the PPMA Community Page.

- Organisations will want to ensure they are up to date with PPE guidelines produced by Public Health England.

We will continue to collate the approaches members are taking and update this document on an ongoing basis.

Specific Examples:

Different organisations are taking different approaches. These approaches will reflect local context and specific workforce requirements/gaps.

The following examples apply:

#	Organisation Type	Approach
1	Tier 1 Local Authority 	<p>This authority in the South East has taken a multi-faceted approach:</p> <ul style="list-style-type: none"> - Employees have been asked to apply for voluntary redeployment (and this has been a successful option) - For services that have temporarily closed, staff have been mandatorily redeployed to similar roles elsewhere). - It is anticipated that further mandatory redeployment will be necessarily either within the council and/or across the wider public service locality <p>In this instance, the authority aims to redeploy to roles of a similar nature to their substantive post but it is recognised that as staff absence rises/demand increases this is unlikely to be entirely possible.</p>
2	Tier 2 Local Authority	<p>This Authority in the South West has also followed a multi-faceted approach:</p> <ul style="list-style-type: none"> - A mix of voluntary and mandatory redeployment has been pursued (similar to example 3) - This organisation has a particular need to free up bed space in the 2 local NHS Acute Hospitals. As a result 2 nursing care homes are being created to support patients who can be moved out of the Acutes. The staffing for these homes are coming from: <ul style="list-style-type: none"> ○ redeployed staff ○ volunteers ○ furloughed workers from other organisations.