



## Redundancy Policy

### 1. Policy Statement

It is necessary for every organisation to adapt to change if they are to remain viable and will involve changes in the number of employees and type of skills they need. In responding to any changes required the Council to aim to keep compulsory redundancies to a minimum by using voluntary redundancy and effective redeployment mechanisms. This policy commitment is reflected in the procedures referred to below.

### 2. Scope of Procedure

This procedure applies to all Council employees and NFRS operational staff, including Fire Control with the exception of employees who are on fixed term contracts with less than 3 months continuity of service.

For the Chief Executive and Chief Officers this procedure should be read in conjunction with the JNC conditions of service for Chief Executives and Chief Officers and the “Discipline, capability and dismissal procedure for senior managers”. There is a separate procedure for dismissal of statutory officers, i.e. Chief Executive, Monitoring Officer and Section 151 Officer.

### 3. Legal Background

‘Redundancy’ is a potentially fair reason for dismissal. An employee’s post may be redundant if the employer intends to stop or requires fewer people to do a particular kind of work at the place where they are employed. The law on redundancy ensures that employers do not dismiss employees without considering alternatives and outlines the:

- Need to treat each individual employee fairly by ensuring that all redundancies are genuine, handled sensitively and any unfair dismissals are avoided.
- Need to consult recognised Trade Unions about any large scale proposals to try to avoid redundancies, where possible.
- Payment of any redundancy compensation due.

### 4. Setting Redundancy in Context

The need to alter the number of posts required within the Council will impact upon employees and can arise from a:

- Change in the way a service is provided or closure of a workplace
- Restructuring
- Need to make budget savings or
- A diminished need for employees to carry out work of a particular kind.

In some instances, a restructuring can take place without the need to apply the full redundancy and redeployment procedures. This may be appropriate when there is a significant match between the existing job profile and the job profile in the new structure. Managers proposing to restructure in this way must discuss specific matching proposals with trade union representatives.

Early planning and consultation with trade unions, employees and their representatives by managers can often minimise or eliminate the need for redundancy. For example:

- While it may be necessary to delete a post from the establishment, it does not automatically mean that the post-holder is redundant. Many employees have flexibility within their contracts of employment allowing them to be transferred to another post. Managers should always consider contractual flexibility first.
- Changes may create developmental opportunities for staff or will allow for work flexibility therefore, employees may be happy to agree changes to their working arrangements and contracts of employment.

However, if the potential for redundancy is identified, it is important to recognise the effect this may have on employees and to handle redundancy and redeployment discussions with care and consideration, taking all reasonable steps to ensure that decisions about redundancy are consistent and fair, and seen to be so.

## **5. Minimising Compulsory Redundancies**

The Council is committed to minimising compulsory redundancy. Measures to achieve this include:

- Redeployment to other jobs within the Council – See the Redeployment Policy and Procedure on the intranet.
- Financial management to reduce other budget costs
- Controls on recruitment e.g. not filling vacancies (natural wastage)
- Accepting requests to job share or reduce hours.
- Seeking applicants for Voluntary Redundancy or Early Retirement (see Voluntary Redundancy and Early Retirement on the grounds of Efficiency of the Service Policies on the intranet).
- Consulting with employees and their representatives as early as possible to share ideas about alternative options that do not involve redundancy.

## **6. Selecting the Workgroup for Proposed Redundancies**

It is often clear which group to make redundant if the reduction impacts on people with the same job description at the same location. However, it is more difficult if the same work is also done somewhere else in the service. Service Managers therefore have to consider the best way for the service delivery and budgets.

Key factors that need to be considered in determining the workgroup for redundancy purposes are:

- If the workplace geographically separate from other units or facilities i.e. a distinct entity
- The type of work the employees within the group are carrying out
- Whether other groups of employees are doing similar work
- Whether any of the jobs are interchangeable
- What employees' contracts of employment specify
- Whether staff on TUPE terms need to be included.

Where various restructures are taking place across the Council at the same time, a pool of appropriate posts will be identified from which the redundancy selection will be made. Redundancy pools should be drawn up from amongst employees affected by each specific proposal across the council. Directorates will retain responsibility for their employees, even when placed in a pool.

In some instances it will be appropriate to include employees with a proportion of similar core skills in the same pool, e.g. secretarial and administrative staff. Normally pools will be formed of employees at the same grade whether posts are occupied by full or part time employees providing the duties and skills of the post holders is deemed to be reasonably similar.

Exceptionally, where managers are considering restructuring in specific service areas which could result in more than one reporting line being affected, then all staff affected by the restructuring should be included in the pool.

Service Managers proposing any redundancies **must** contact with the Head of HR Advisory prior to commencing collective consultation and provide the information required in Section 9, so that it is clear which workgroups and numbers are proposed for redundancy at any time across the Council.

## **7. Authorisation Process for Restructures in Services**

### **Major changes to a number of posts as a result of large scale restructuring and this leads to a reduction or increase of 100 or more posts.**

Major changes across Directorate structures need to be authorised by the Chief Executive who will make a recommendation to Cabinet, for agreement. In all cases HR advice must be sought.

Funding will need to be confirmed with Finance, as part of the authorisation process, prior to any proposal being confirmed.

*Once Cabinet approval has been gained, the summary of post changes will need to be updated on ERP. This will, in the majority of cases, be after a process of employment consultation. HR Advisory will provide advice and coordinate with the Assistant Director to support the change information needed to update ERP. The most senior officer involved in the change will need to authorise these changes.*

### **Smaller scale restructures in services affecting the reduction or increase of up to 99 posts.**

Funding will need to be confirmed with Finance, as part of the authorisation process, prior to any proposals being confirmed. In all cases advice must be sought from HR Advisory.

- Increase or decrease of up to 49 posts - Subject to consultation, the process will be authorised by the Director.
- Increase or decrease of 50 to 99 posts - Subject to consultation, the process will be authorised by the Chief Executive. *The changes will be advised on by HR Advisory will provide advice and coordinate with the Assistant Director to support the change information needed to update ERP. The most senior officer involved in the change will need to authorise these changes.*

## **8. Trade Union Consultation**

We will consult the Trade Unions about all redundancy proposals (not just those covered by statutory obligation). This applies whether the employees affected are members of the Trade Unions or not. The purpose of this consultation is to:

- Try to avoid redundancies if possible and
- Reduce the numbers affected and minimise the adverse consequences.

**Collective Consultation** - is required where 20 or more redundancies are being contemplated at the establishment and planned to take effect within 90 days or less (this number includes any VR's). This mainly includes large-scale redundancies, where the employee's employment will end around the same date. However, it also includes circumstances where redundancies are spread out over a longer period.

Ideally consultation should start as early as possible and as soon as the potential for redundancies has been identified e.g. whilst proposals are being developed and before any decisions have been made. In any event, it must begin:

- 20 to 99 redundancies - at least 30 days before any dismissals **can** take effect.

- 100 or more redundancies - at least 45 days before any dismissals **can** take effect.

Please note that these are the minimums and consultation may continue for a longer time period where necessary.

Meaningful consultation must take place to try to avoid the redundancies, reduce the numbers affected, mitigate the consequences and reach agreement on the way forward. To do this, it is vital that consultation takes place before redundancies have become inevitable, as waiting until the plans are well advanced will make this difficult.

Meaningful consultation means:

- Entering into discussions with an open mind
  - Being willing to consider and be persuaded about other options and
  - Allowing sufficient time for both sides to consider the options proposed before dismissal notices are issued.
- A written notification of the redundancies being contemplated must be given to the Trade Unions. This notification has specific headings under which information must be given. See Section 9.
  - Any counter proposals made by the Trade Unions must be considered, and replied to in writing. If any proposals are rejected, the reply must say why.

Refer to Collective Consultation Supplementary Guidance on the intranet.

## **9. Information to be given to the Trade Unions (Section 188 Letter)**

The Trade Unions need to be informed by Service Managers in writing about the:

- Reasons for the proposed redundancies
- Numbers and descriptions of the employees proposed to be made redundant
- Total number of employees in these categories at the establishment in question
- Proposed method of selecting people to be made redundant
- Process to be followed and the timescale and
- Proposed method of calculating any redundancy payments (and whether statutory redundancy pay is to be enhanced in any way).
- Agency workers – number; service area and type of work undertaken across the Council.

The statutory consultation period is not regarded as having started until the information under the headings above has been given.

The information provided will demonstrate that the Council has an initial considered plan/proposal. However, the fundamental nature of the collective consultation process is that while redundancies are proposed, no final decision has been made. This then allows Trade Unions to formulate counter or other constructive proposals to minimise any potential impact on staff.

Often, only an estimation of the numbers and descriptions of the employees proposed to be made redundant, can be provided at this stage. The manager must therefore make it clear in their letter to the Trade Unions that the information given is an estimate. However, there must be sufficient information for the Trade Unions to see how redundancies could proceed, so that they can understand and respond meaningfully.

Consultation with Trade Unions should be underway before individual consultation commences.

## **10. Consulting with Individual Employees**

To ensure fair handling of redundancy, managers must consult the individual employees affected. Consultation will commence from the date that the Trade Unions are notified. The purpose of this consultation is to:

- Notify employees that they are “at risk” of redundancy

- Keep the employee informed of developments
- Make sure individuals are aware of the procedure being followed
- Explain the redeployment procedure and explore options for the employee
- Let employees know what support is available to them and
- Consider comments made by individual employees about the proposals.

Employees are entitled to bring a trade union representative or a work colleague to their individual consultation meetings. The discussions and outcomes at meetings should be recorded and agreed.

Refer to Individual Consultation Supplementary Guidance on the intranet.

### 11. Managers Role in the Consultation Process

Managers are responsible for ensuring that consultation with individual employees and trade unions is undertaken in the way outlined above and are required to keep full and accurate records of all consultation meetings.

This includes all formal collective consultation and individual consultation meetings and discussions, in addition to completing the pro-formas provided by HR. This will ensure that the consultation process is fully documented, should any queries arise. During the consultation process, managers should regularly update their staff and HR Advisory on progress for each employee. At the end of the redundancy process all files should be forwarded to the HR Advisory Team for collation and electronic storage.

### 12. Government Notification (20 or more redundancies – including VR)

Where the statutory consultation process with trade unions is required, (i.e. 20 or more redundancies within a 90 day period) the Government must be notified. Voluntary redundancies should be included in this number.

A HR 1 form must be completed and a copies given to the Trade Unions. The deadline for submitting the form is the same that applies to the start of collective consultation. The proposed date of the redundancies notified on the HR1 form will reflect the end of the formal consultation period.

It is an offence to fail to comply with this requirement.

Service Managers who are proposing redundancies **must** therefore link with the Head of HR Advisory in good time so that they have a clear picture of the number of redundancies proposed at any time across the council.

The Head of HR Advisory or their representative will complete and send the HR1 form to the Secretary of State for Business, Innovation and Skills.

### 13. Compulsory Redundancies

We are committed to avoiding compulsory redundancies, however there may be occasions when redundancy dismissals are unavoidable, for example where:

- No suitable alternative job is available for an employee whose post has been deleted or the
- Voluntary Redundancy search has not engendered the job reductions required.

### 14. Selecting Individual Employees for Redundancy (from a workgroup)

In order to decide which employees, from the total group 'at risk', are to be selected for redundancy, selection criteria should be developed which is clear, objective and precisely defined and ensure that the proposed selection methods are fair and non-discriminatory.

The selection criteria chosen should be discussed with the Trade Unions and employees as part of consultation, and prior to any selection taking place. HR Advisory can provide further guidance

about appropriate selection methods (including using selection matrixes) and to ensure that adequate consultation with the Trade Unions is undertaken.

Different approaches will be relevant for different situations – for example:

- Where a group of employees doing the same/similar role and the number of positions required reduces, an assessment of each employee in the form of a selection matrix may be appropriate.
- Where a group of employees are all applying for new roles an assessment based on a structured interview may be appropriate following the normal recruitment protocol.

## 15. Employees on Temporary or Fixed-Term Contracts

The redundancy policy does not apply to employees on fixed term contracts with less than 3 months continuity of service. Refer to the Fixed Term Contracts Policy on the intranet.

Employees on fixed term contracts with continuity of service of more than 3 months (this period could include a succession of contracts) and whose role is at risk of redundancy, should therefore be included in the relevant selection pool along with permanent employees, have the same selection criteria applied and be offered the same redeployment opportunities. Exceptions to this approach would only be made when, for example, a fixed-term employee has been recruited specifically as an interim measure pending a reorganisation and it would normally be assumed that this employee is declared redundant before others on indefinite contracts.

Fixed-term employees who have two years or more continuous service will receive a redundancy payment on the same basis as other employees.

## 16. Issuing Notice of Redundancy Dismissals to employees

Notice of redundancy dismissal will **not** be issued to an employee until the formal consultation period has ended. It is also necessary to have redundancy and/or pension calculations authorised prior to issuing formal notice of redundancy.

Before formal notice of redundancy is issued to an employee, managers must arrange a review meeting with a Senior HR Advisor to check that all the necessary steps have been completed to make the dismissal fair and provide the appropriate letter for signing by a manager authorised to dismiss.

Please see Dismissal on the Grounds of Redundancy Guidance on the intranet.

## 17. Notice Periods

A notice period is the amount of time that an employee has to be notified of termination of their employment. It is entirely separate from the amount of redundancy pay that an employee receives at the end of the notice period.

The amount of notice (notice period) each individual receives differs because notice is whichever the greater amount of:

- What is set out in an employee's contract of employment or
- One week's notice for each year of service (up to a maximum of 12 weeks).

Employees are normally required to work their period of notice. This applies to both voluntary and compulsory redundancies.

Managers should liaise with HR Advisory to confirm when formal notifications of dismissal for redundancy need to be issued to employees. HR Advisory will then generate the appropriate letter

The letter will normally be given to the employee at meeting and notice will run from the day after the meeting.

## 18. Employee Requests to Leave Before End of Notice Period

Most employees will normally be expected to work their full notice period. However, some employees may ask to leave before their notice period has expired, for example, to start a new job. In these cases it is up to the relevant Service Manager to decide whether to let them leave early based on the impact on the operational needs of the service and the circumstances of the individual's request. If they agree to let the employee leave early the redundancy date will be brought forward and no additional payment will be made for the remaining notice period that is not worked. However, if the service would be negatively impacted by this early redundancy, the manager can refuse the request and ask the employee to work for the whole of their notice period. If an employee leaves early in these circumstances they will be deemed to have resigned and will lose their entitlement to a redundancy payment.

Service managers have discretion to reduce some or all of the notice period. This may be agreed where there are serious operational problems if an employee serves their full period. In these circumstances pay in lieu of notice would be given, but it is only if there is no other option.

## 19. The Council's Redundancy Pay Arrangements

- Employees only receive redundancy payments if they have at least 2 years continuous local government service. Where employees have been TUPE transferred into the Council, managers must use the correct policy to ensure that any contractual terms and payments relating to redundancy are applied to those employees.

Previous continuous service with organisations covered by the Redundancy Payments Modifications Order will also be used to calculate redundancy payments. For further information please contact HR Advisory.

There is a statutory sliding scale for redundancy payments dependent upon age and length of service. The statutory scale is as follows:

Service up to age 22	0.5 week's pay for every year of service
Service from ages 23 up to 41	1 week's pay for every year of service
Service from age 41	1.5 week's pay for every year of service

The Council enhances the statutory redundancy pay scheme in two respects:

- The Council bases redundancy pay on an employee's actual contractual gross weekly pay, rather than cap this at the maximum statutory limit for a week's pay, as set by the Secretary of State; and
- The council multiplies the statutory scale (number of weeks' pay for every year of service) by a factor of 1.5.

Therefore, your redundancy calculations are based on the following:

Actual Contractual Gross Weekly Pay	<b>X</b>	Number of weeks statutory redundancy entitlement (based on age and length of service - see table above)	<b>X 1.5</b>	= Redundancy Pay Due
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The following factors also apply:

- The maximum years of service that can be given is 20 years. (The years which count are found by starting at the date of redundancy and working back).

- Redundancy Pay is not taxable, or subject to national insurance contributions, up to a limit of £30,000. Beyond that any payments are taxable.
- Redundancy pay will not be paid until after the end of the notice period.
- Before employees can receive their redundancy pay, they have to confirm in writing (on an L97 Form) that they have not accepted other employment within the Council, or with an organisation covered by the Redundancy Payments Modifications Order 1999, which is due to start within 4 weeks of their redundancy. The HR team will send the L97 Form with the formal letter of redundancy dismissal and instruct the employee to complete, sign and return the form to HR Advisory. Failure to return the L97 Form will delay payment.

There are also some occasions when redundancy pay cannot be paid. They are when an employee:

- Unreasonably refuses to accept an offer of a job that we consider to be suitable alternative employment
- Does not have the relevant length of service
- Is issued with notice of redundancy but, before the dismissal takes effect they receive an offer of employment from the County Council or another employer covered by the Redundancy Payments Modifications Order 1999. This will mean that they will lose entitlement to a redundancy payment but, will maintain their continuous local government service (as determined by the Modifications Orders). This only applies where the offer of a new job is made before the end of the contract and the employment starts within 28 days of their dismissal due to redundancy.
- If an employee on a zero hours contract is made redundant and if entitled to redundancy pay, the redundancy pay calculation would be based on their weekly pay. Their weekly pay would be calculated in line with existing processes that relate to any other employee who works variable working hours and would be based on their average weekly pay earnings based on a 12 week reference period. The 12 week reference period is the 12 weeks prior to the date of the notice being served (the calculation date).
- The 12 week reference period should be made up of 12 weeks in which pay was due to the worker, if during this period of time there was a week in which the worker received no pay this will be replaced by one of the weeks preceding the 12 week reference period when the worker was paid.

## 20. Impact of Redundancy on Local Government Scheme Pension Benefits

Pensions is a complex area therefore any queries on the options below should be directed to LGSS Pensions.

- For pensionable employees **over 55** years of age (please refer to 'Early Retirement on the grounds of Redundancy or Efficiency of the service' on the intranet.
- For pensionable employees **under 55** years of age the options are as follows:

If the 2 year vesting period is met:

- Keep accrued pension benefits – known as a deferred pension and
- May be able to transfer pension benefits to another pension arrangement

Less than 2 year's pensionable service:

- Can normally choose to claim a refund of contributions
- May be able to transfer pension benefits to another pension arrangement (provided you have been a member for at least 3 months)
- Delay the decision.

## 21. Employees who are Pregnant, on Maternity, Adoption or Shared Parental Leave

Employees who are pregnant, on maternity, adoption or shared parental leave are afforded special protection under the law. While pregnant employees can be declared at risk of redundancy, their

pregnancy (or any absence on maternity, adoption or shared parental leave) **must not in any circumstances** be used either directly or indirectly as a selection criterion for redundancy.

In consultation with HR Advisory, managers should invite employees on maternity, adoption or shared parental leave to a meeting to discuss their personal situation. If the employee is unable to meet, managers should ensure that they stay in touch by phone or in writing and work with the HR Advisory on each individual case. Employees on maternity; adoption or shared parental leave, who are put 'at risk' must be formally notified in the same way as any other employee. They are able to remain on maternity, adoption or family leave and to seek suitable alternative work during their leave period, unless they are dismissed in the meantime.

Managers should make sure they keep in touch with employees on these types of leave and ensure that they are considered for any potentially suitable redeployment opportunities. Refer to the Redeployment Policy and Procedure on the intranet. Before issuing notice of dismissal to a woman on maternity leave, or employees on adoption or shared parental leave, managers should liaise with the HR Advisory.

### **Suitable Alternative Employment (when employee has been confirmed as being selected for redundancy)**

At the point at which an employee on maternity, adoption or shared parental leave is selected for redundancy, we will take all reasonable steps to identify suitable alternative employment (in the same way as all other employees).

However, where suitable alternative employment is identified, in accordance with current legislation the job will be offered to an employee on maternity, adoption or shared parental leave in preference to another employee who is not on such leave but, whose job is also redundant. This is the case even if the other employee is better qualified for the position.

The alternative job must be offered to the employee before their existing contract comes to an end, and the new contract must take effect immediately afterwards. The fact that the employee is not ready to return to work at the time their job is made redundant, will be disregarded when considering whether or not to offer an alternative position.

## **22. Training or Removal Expenses**

In cases of redundancy, we do not reclaim these expenses from the employee.

## **23. Employee who have Overtaken Annual Leave and Purchased Annual Leave**

**Annual Leave** - If an employee has overtaken their leave, at the point of leaving due to redundancy, the Council will normally not reclaim this from them. However, managers need to ensure that each employees leave is, managed to prevent this happening (as far as possible).

**Purchased Annual Leave** - Where employees are made redundant and have overtaken their additional purchased leave (under the Holiday Purchase Scheme), an adjustment will be made to their final months' pay to recover the cost of the overtaken leave. However, if they have not taken all of their purchased leave entitlement before their last day, any untaken additional leave already paid for, will be repaid to them. Managers will need to notify Payroll Services to ensure that payment is made. See the Holiday Purchase Scheme for further guidance on this.

## **24. Time off to look for Work or Attend Training**

Once employees have been given notice of redundancy they will be given reasonable paid time off to look for another job or to arrange training. Reasonable time off is given during working hours to:

- Attend interviews
- Visit colleges or other agencies to arrange training to find another job

Costs involved in attending interviews within the Council will be reimbursed. As paid time off is given to attend interviews, managers may ask to see the employee's interview letter before they approve this. Employees must give managers as much notice as possible so that cover arrangements can be made.

### **25. Assistance Available to Employees 'At Risk' of Redundancy**

Employees who are notified that they are "at risk" of redundancy will receive information on the assistance that is available to them as part of the formal consultation process.

### **26. Process for Raising Concerns – after receipt of formal notice of redundancy**

If an employee has concerns about a redundancy notice issued to them, in the first instance they should contact the Director for their Service Area or their nominated Deputy in writing within 7 calendar days of receiving their notification of dismissal to detail their concerns. The Director or their Deputy should investigate the complaint and respond to the employee within 7 calendar days.

### **27. Appeal Procedure - Appeals against Dismissal due to Redundancy**

If an employee is not satisfied with the explanation given to them by the Director of their Service they can appeal using the Appeals against Dismissal Policy.

The employee needs to submit their written notification of appeal against dismissal to the Head of HR Advisory within 7 calendar days, providing full details of their grounds of appeal including all the key points they wish to present at their appeal.

Specifically the employee needs to specify whether in their view:

- the decision to dismiss was unfair
- the procedure wasn't used correctly
- the penalty was unfair
- Exceptionally - new evidence has come to light that was not known about at the time of the dismissal.

If there are a number of similar cases and with written consent from all affected employees, one appeal may be heard as a 'representative appeal'. The Head of HR Advisory will consult with the Staff Side Secretary to decide whether a representative appeal will be appropriate, in the circumstances. Its outcome will then determine the outcome of all the other cases.

### **28. Managing Employees following Redundancies**

Managers should be aware of the impact that redundancy has on remaining employees and ensure that they communicate with them to ensure they understand the reason(s) for the redundancies and any impact this may have upon their future roles.

### **29. Leavers due to Redundancy**

- Managers should complete the relevant section of the Leavers Form (Form 8) and submit it online via Lets Go Direct.
- When someone is released on redundancy, it would not be expected that they would be re-employed as either, an employee or an agency worker/contractor/under a contract for services in the same or similar job role or service area from which they were made redundant. Therefore any exceptions to this approach leading to the re-engagement of redundant employees will have to be justified. Managers who wish to recruit employees or procure workers previously been made redundant from the same service area will need to provide a business case for doing so and request authorisation from their Director, who will discuss the business case with the LGSS Head of HR Advisory to confirm compliance.

### 30. HR's Role and Involvement

HR Advisory are available to offer guidance about any aspect of handling redundancies and redeployment. Managers need to ensure that they update and consult HR at key points, especially in relation to:

- Each stage of the proposals
- Methods of selection for redundancy
- Choices open to employees when they have been selected for redundancy and
- Time limits on the consultation process
- Attend formal dismissal meetings (as appropriate).

HR Advisory are able to provide further support materials for managers, including a checklist for managing redundancy. Redundancy FAQ's are also available on the intranet.