



# Employee Handbook

## Redundancy Policy

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## 1. Purpose of the Policy

Although from time to time reductions in employee numbers will be necessary the Council is committed to taking whatever reasonably practicable steps may be available to avoid redundancies and to assist employees who find themselves at risk.

## 2. Scope

The Policy applies to all Council employees, except those employed directly by schools, (please refer to the Schools Personnel Handbook a copy should be located in the Transaction Team in Shared Services) It applies to employees whose appointments are subject to the following national conditions of service:-

- JNC for Chief Executives
- JNC for Chief Officers
- NJC for Local Government Services
- JNC for Youth & Community Workers
- The Soulbury Committee

Where National conditions of service contain additional provisions, these will be taken into account.

## 3. Consultation

- 3.1. Consultation with employees and trade unions is essential when employee reductions are possible. Consultation will take place with employees who may be affected, informally with trade union representatives and formally with full-time union representatives or specified local representatives in line with statutory provisions. (The 1992 Act).
- 3.2. The Chief Executive or Directors (or their appropriate service managers with designated authority to dismiss – Appendix 1) will be responsible for initiating all the stages of consultation. The informal stages will start at an appropriate point when, in the judgement of the Council, the employees who may be affected should be notified and given information on the reasons for the option being considered. The same information will be shared simultaneously with trade union representatives and consideration will be given to any suggestions made to alleviate the problems.
- 3.3. These informal consultations may on occasions, provide alternatives to the proposed reductions. Where this is not possible and where the option under consideration becomes a firm proposal (normally a decision by the Chief Executive, Director or where the reductions are part of the annual budget process, or as a major restructuring a recommendation by Elected members to Council) formal consultation will begin as detailed in 3.5 below. The timing of the formal consultation stage will largely depend on when the Authority has reached a firm proposal and it is in the interests of the Council and the trade unions for it to begin.

- 3.4. The appropriate Joint Consultative Committee will be informed, at scheduled meetings, of any formal proposals for employee reductions which have been, or are about to be, notified to the trade unions under paragraph 3.5 below. Additional meetings may be arranged if necessary to assist with the consultation process. The Joint Consultative Committee will provide a forum for dealing with any differences between the Council and the appropriate Employees' Side on the handling of any reductions. This will not replace, however, the statutory requirement to consult with the relevant trade unions for the employee group(s) concerned whenever firm proposals leading to the possible reduction of employees have been made.
- 3.5. Where the Council is proposing to make redundancies consultation must begin "at the earliest opportunity" and no less than as follows:

| <b>Number of employees</b>   | <b>Period of Consultation</b>   |
|--|---|
| between 20 and 99 employees at one establishment within a period of 30 days or less, | at least 30 days before the first of the dismissals takes effect.               |
| Over 99 employees at one establishment within a period of 90 days or less,           | a period of at least 45 days consultation will apply.                           |
| fewer than 20 in one establishment   | the Council will endeavour to observe a consultation period of at least 30 days |

Fixed term contracts that have reached their agreed termination dates are excluded from the requirement to consult collectively.

- 3.7. The Chief Executive or Director effecting the employee reductions will have responsibility for issuing a Section.188 (S.188) notice to the relevant trade unions (contact Human Resources for template letter). This will be sent to the full-time officer of the union(s) concerned (unless the union stipulate otherwise) and will contain the following information:
- *the reasons for the proposals;*
  - *the numbers and descriptions of employees whom it is proposed to dismiss as redundant;*
  - *the total number employed of that description at the establishment concerned;*
  - *the proposed method of selecting*
  - *the proposed method of carrying out the dismissals, including the period over which the dismissals are to take effect.*

A copy of the S.188 notice will be sent to the Head of Human Resources.

- 3.8. The S.188 notice will be sent "at the earliest opportunity" - this means at the time when a Directorate has established a firm proposal in relation to the reduction (as opposed to where it is being considered at a preliminary stage as one of a range of options). The Chief Executive or Director will consider any formal representations received from the trade union(s) during the statutory consultation period in response to the S.188 notice, provide such additional information as is reasonably practicable, and reply to representations stating the reasons for any rejection of the trade unions' proposals.

## **4. Alternatives to employee reductions**

- 4.1. At all stages of informal and formal consultation the Chief Executive or Director will consider any alternatives that may be available to compulsory redundancy. These will include:
- the possibility of achieving the reduction on a voluntary basis
  - the possibility of offering suitable alternative work within the directorate or service, (this is a statutory requirement)
  - any other reasonable measures that may be available.
- 4.2. At any stage when employee reductions are likely the Chief Executive or Director may introduce a ring-fence arrangement to restrict applications for any vacancies arising in the area at risk to internal candidates already working in the specified area or occupation. Where ring-fencing is essential to protect the interests of staff affected by likely reductions the appropriate trade unions and Head of Human Resources will be notified by the Directorate concerned, of the extent and duration of the arrangement.
- 4.3. The Chief Executive or Directors will, from time to time, take any other sensible management action that may be available to deal with employee reductions and to try to avoid the need for compulsory redundancies.
- 4.4. Where, despite consideration of alternatives, compulsory redundancies are still necessary, Directorates will initiate the redeployment procedure for all employees under formal notice of redundancy, and others clearly at risk, at the earliest opportunity

## **5. Compulsory Redundancy Selection Criteria**

### **5.1 Introduction**

- 5.1.1 Resources Management Sub-Committee have agreed the following approach when dealing with redundancy selection criteria and procedures.
- 5.1.2 The handling of compulsory redundancies where selection is involved requires a systematic approach, if any dismissals are to be judged as fair. There is also an expectation amongst trade unions that in the event of compulsory redundancies being necessary, the Council will adopt reasonable selection criteria. The guidelines aim to ensure that good industrial relations practice is maintained in dealing with difficulties of this kind.
- 5.1.3 Any department or service faced with the problem of achieving employee reductions by selection for compulsory redundancy will have the principal objective of maintaining a balanced workforce after the redundancies are carried out, measured against the anticipated needs of the Authority. On this basis the approach to selection will be as follows:-

## **5.2 Unit of Selection**

- 5.2.1 The "unit of selection" should be clearly defined - that is the area of work (based on geography, function and/or level) where reductions are necessary. The relevant trade unions and employees concerned will be made aware of the unit of selection during the consultation stage of the process.

## **5.3 Selection Procedure**

- 5.3.1 Wherever possible two senior managers together, with responsibility and/or knowledge of staff in the unit of selection will then apply selection criteria in the following way:-

### **Stage 1**

Employees will be compared using any available benchmarks to measure performance and by a careful assessment of the skills, qualifications, experience and training record offered by the employees against the anticipated requirements of the department. Any recorded disciplinary action on grounds of conduct or capability may be taken into account.

To assist them in this exercise the managers concerned should be given a factual summary of each member of staff affected in the unit of selection including qualifications, in-service training, job description, previous relevant experience, particular skills or responsibilities, and any recorded information on performance including appraisal or similar assessments.

### **Stage 2**

If selection is still necessary the employee's absence records over the previous two years will be taken into account - restricted to the number of day's un-certificated absence and any unauthorised absence. Absences related to pregnancy or industrial injury should be disregarded.

### **Stage 3**

If selection is still necessary, timekeeping records will be considered. The frequency of and reasons for poor timekeeping will be taken into account.

### **Stage 4**

If it has not been possible to select by Stage 3 every effort should be made to find any remaining objective criteria to differentiate those at risk when compared with the requirements of the department.

- 5.3.2 The personal circumstances of employees at risk of redundancy must not be taken into account at any stage of the selection process. At all stages the employees concerned should be given details of any records to be used.
- 5.3.3 Where selection criteria have been applied those selected must be notified as soon as possible and in a sensitive manner which fully recognises the difficulties faced by the employee. Those not selected should also be told of the decision as soon as possible.
- 5.3.4 Where someone has been selected for compulsory redundancy, they must be given the reasons for their selection in writing and notifying them of their right to appeal.

## 6. Redundancy and Compensation

### 6.1 Redundancy and compensation payments

6.1.1 All employees who are made redundant, whether that be following a call for volunteers in a particular area of service or who are compulsorily redundant, and have a minimum of 2 years continuous service with the Council and related employers, (local authorities and other specified public employers covered by the Redundancy Payments Modification Orders) will be entitled to receive an additional compensatory payment if their employment with the Council is terminated on grounds of redundancy. This paragraph does not apply where service has been augmented under Paragraph 6.3 .

6.1.2 Employees will receive the following entitlement:

| Service                            | Entitlement   |
|------------------------------------|---|
| For service between ages 16 – 21   | ½ week's pay for each completed year of service multiplied by 1.5   |
| For service between ages 22 – 40   | 1 week's pay for each completed year of service multiplied by 1.5   |
| For service from age 41 and above. | 1 ½ weeks' pay for each completed year of service multiplied by 1.5 |

A component of the above lump sum will be made up of the statutory entitlement listed at 6.1.1

The additional compensatory payment is calculated taking account of any local government service, and service covered by the Redundancy Payments Modification Orders.

6.1.3 “Service” is the equivalent of any continuous service with the Council and related employers (local authorities and other specified public employers covered by the Redundancy Payments Modification Orders) up to a maximum of 20 years in total.

6.1.4 “A week's pay” is equivalent to the employee's actual level of contractual earnings.

6.1.6 The total amount of service counted will be up to a maximum of 20 years. The total compensatory payment will not exceed the equivalent of 45 weeks pay.

6.1.7 In all cases, a week's pay will be calculated on the employee's actual level of contractual earnings.

6.1.8 For employees in Shire Services who have a contractual entitlement to “qualifying hours” and who, at any time during the 52 weeks immediately preceding the date on which notice to terminate employment is served, have worked qualifying hours in addition to contractual hours, a week's pay shall be 1/52nd of the aggregate of the contractual

qualifying hours relating to the 52 weeks multiplied by the basic hourly rate of pay to which the employee is entitled on the date that dismissal is served.

## **6.2 Payment of Pension**

- 6.2.1 Any employee who is subject to these redundancy provisions, who is aged 55 and over at the date of termination and is a member of the pension scheme, will be eligible to receive immediate payment of their pension.
- 6.2.2 In these cases, the employing service will meet any additional strain on pension fund.

## **6.3 Purchasing Additional Pension Benefits**

- 6.3.1 If the employee is a member of the Local Government Pension scheme, there will be an option to purchase additional pension benefits under regulation 52 of the Local Government Pension Scheme Regulations as an alternative, but not as well as additional compensation under section 6.1. The additional service cannot exceed 10 years and will be the period which can be purchased by the notional additional compensation i.e. the excess over the statutory payment calculated in accordance with paragraph 6.1. This will be at no extra cost to the Council and the calculation will take into account any additional pension costs met by the Council resulting from the early payment of pension benefits. The employee must be an active member of the LGPS and any decision to purchase additional pension benefits must be made before their employment is terminated.

## **6.4 Early Retirement on Grounds of Efficiency**

- 6.4.1 Early release of an employee's pension will be considered where the employee is aged 55 or over and is a member of the Shropshire pension scheme. In all cases the employing service must be able to demonstrate that the retirement will result in efficiencies for the service.
- 6.4.2 In addition to immediate payment of pension employees may be awarded additional membership of their pension of up to 10 added years.
- 6.4.3 In situations where early retirement is granted on the grounds of efficiency of the service, there will be no entitlement to redundancy pay, as there is no redundancy and employees will receive the early release of their pension benefits only.
- 6.4.4 In these cases, the employing service will meet any additional strain on the pension fund.
- 6.4.5 Any decisions regarding retirement on the grounds of efficiency will be taken by the Early Retirement Panel.

## **6.5 Positive Assistance**

- 6.5.1 Where, despite consideration of any other alternatives available, the Council gives formal notice to any employee, on grounds of redundancy, a number of positive measures will be used, where appropriate, to assist employees. These may include:-

- allowing reasonable time off with pay for employees under notice to seek alternative employment
- referring appropriate employees to County Training if skills counselling would be helpful. The Council will pay any charges for this service where it is agreed that an employee at risk of redundancy may benefit
- providing information from the Department for Work and Pensions on benefits payable, if this is relevant to groups of employees affected by redundancy
- encouraging attendance (and paying all employee fees) on Pre-Retirement Courses in appropriate cases
- providing whatever reasonable support and guidance may be available to employees facing redundancy

## **7. Right of Appeal**

Any employee who has been dismissed on grounds of redundancy or efficiencies of the service has the right of appeal against this decision.

### **7.1 Introduction**

- 7.1.2 In all cases, an intention to appeal should be notified in writing either by letter or using the form in Appendix 2 to the Head of Human Resources, within 10 working days (Monday - Friday excluding Bank Holidays) of receipt of the form or letter confirming redundancy. A form is attached at Appendix 2, alternatively a letter outlining the appeal may be sent. The form/letter to the Head of Human Resources should include brief details of the grounds of the appeal.
- 7.1.3 While an appeal is in progress, the contractual period of notice will continue to run from the original date of notification of their redundancy.

### **7.2 Procedure to be followed prior to appeal**

- 7.2.1 The Appeal will then be considered by The Chief Executive.
- 7.2.2 The Head of Human Resources will appoint a Clerk to the Appeal.
- 7.2.3 The Clerk to the Appeal will write to the employee informing them of the time and date of the Appeal hearing. The hearing will usually be within three weeks of receipt of the notification of appeal. The letter will advise the employee of their right to be represented by a trade union representative or colleague.
- 7.2.4 The letter will also inform the employee that they are required to acknowledge receipt of the letter notifying them of the appeal date. The employee is required to inform the Clerk to the Appeal, in writing, whether it is their intention to be represented and if so, the name and position of the person who will represent them. Any written evidence that the employee intends to rely upon must be sent to the Clerk to the Appeal hearing the appeal at least seven days in advance of the appeal.

7.2.5 Seven days prior to the appeal, the Manager making the redundancy decision will prepare a written statement of case and send it to the Clerk to the Appeal. The written statement of case will need to explain the following:

- The papers (often including committee reports) which provide information on the need for the redundancy
- The selection criteria used (if applicable)
- Details of the employees in all posts included in the pool for redundancy selection, broken down by gender, age, start date, ethnic origin, disability and length of service in current post
- Any measures taken to try to avoid compulsory redundancy e.g. offering voluntary redundancies in order to allow the at risk employee to move into the resultant vacant post (a 'bumped redundancy')
- Details of consultation arrangements
- The reasons provided by the employee appealing against redundancy

7.2.6 Although the employee is likely to have seen the documentation contained within the statement of case during the consultation process, a copy of the statement of case should be sent to the employee seven days before the hearing.

7.2.7 The employee will be asked to provide any documentation or statement of case they or their representative wishes to rely on at the appeal hearing, 7 days before the appeal hearing where possible.

### **7.3 Procedure to be followed at the Appeal Hearing**

7.3.1 The Chief Executive will receive support at the hearing from a HR Officer not involved in the decision to make the employee redundant.

7.3.2 The Chief Executive will firstly have the opportunity to ask questions of one of the managers involved in the redundancy selection process.

7.3.4 The Chief Executive will then go through the elements in paragraph 7.2.5 and allow the employee or their representative to respond on each one. The employee or their representative will also be allowed to make any further representations in support of their appeal at the end of the hearing.

7.3.5 The Chief Executive will then make a decision based on a consideration of whether:

- The proposed redundancy has been based on objectively justifiable grounds
- The pool for redundancy selection has been defined appropriately
- The selection criteria used is appropriate, objectively justifiable, fair and reasonable
- All appropriate options have been pursued to avoid compulsory redundancy
- Appropriate consultation has taken place with the employee

### **7.4 Procedure to be followed after the Appeal Hearing**

7.4.1 The Chief Executive will then give the outcome of the appeal in writing as soon as reasonably practicable, and normally within 14 working days.

7.4.2 Where an appeal is unsuccessful and a redundancy decision is confirmed, employment will terminate on the date specified in the original written notification of redundancy.

7.4.3 Where an appeal is successful, the outcome/s will depend on the precise circumstances of the decision, but may include:

- An offer of suitable, alternative employment in accordance with the procedures adopted by the Council.
- Confirmation of continuation in the employee's original role
- That the redundancy notification is placed on hold pending further consultation with the employee

7.4.4 The letter from the Chief Executive giving the outcome of the appeal will make it clear that the decision is the final stage of the appeals procedure

### **Review of Policy**

The policy will be reviewed at regular intervals, in conjunction with changes to legislation that may impact upon it.

### **EINA conducted:**

## **APPENDIX 1 - List of Senior Officers with delegated authority to dismiss**

The list senior officers with authority to dismiss can be located [here](#).

**Redundancy Appeal Register Form**

**Name:**

**Job Title:**

**Directorate:**

**Date:**

Having discussed the grounds for my redundancy with the appropriate persons, I remain aggrieved and now wish to register a formal appeal – the details of which are outlined below (*please include as much information as possible and include extra sheets if necessary*)

***Details of appeal:***

***My preferred outcome for resolving this appeal would be:***

**Signed:** .....( Employee) **Date:** .....

**Please submit this form within 10 working days of written notification of redundancy as per paragraph 7.1.2 of this procedure.**