

Compulsory Redundancy Policy

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Contents

1.0 Introduction	2
2.0 Definition	2
3.0 Avoiding Compulsory Redundancy	2
4.0 Consultation	3
5.0 Redundancy Selection Procedure.....	4
5.1 Selection Pool	4
5.2 Selection Method	5
5.3 Bumping/Transferred Redundancy	5
6.0 Entitlements/Redundancy Pay	5
7.0 Pension Benefits For Local Government Pension Scheme Members.....	6
8.0 Notice of Redundancy.....	6
9.0 Suitable Alternative Employment	6
9.1 Trial Period	7
10.0 Time off for training and/or to look for new employment.....	7
11.0 Appeal Against Selection for Redundancy	7
12.0 Appeal Against Suitable Alternative Employment.....	8
13.0 Appeal Against Dismissal Due to Redundancy	8
14.0 Links to Other Policies/Guidelines.....	8
15.0 Review of the Policy	8
Appendices to this Document.....	8

1.0 Introduction

South Lakeland District Council recognises the importance of creating a secure working environment for employees and will take steps to ensure continuity of employment through the planning of staffing levels for effective, economic and efficient provision of service.

It is the council's policy to manage its business in such a way that compulsory redundancies are unlikely to be required. However, in the event that the authority's circumstances change and the result is that fewer employees are needed to perform the work of the council then some redundancies may become necessary. In this case, the council will take appropriate steps to keep the number of compulsory redundancies to a minimum, whilst taking into account the needs of the service.

2.0 Definition

Where compulsory redundancy is considered, 'redundancy' must satisfy the following statutory definition: i.e.

- The fact that the employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by them, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed; or
- The fact that the requirements of the business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in a place where they were so employed, have ceased or diminished or are expected to diminish.'

Redundancy is a potentially fair reason for dismissal however the council recognises that in order for a redundancy dismissal to be fair, they must comply with the general requirements of the Employment Rights Act 1996 to act reasonably: i.e. the council will:

- Advise and consult affected employees;
- Adopt a fair selection procedure; and
- Whenever possible offer suitable alternative employment to those selected for redundancy.

In cases where the service transfers to another provider, employees are not necessarily redundant and would normally transfer to another employer on their existing terms and conditions, under the Transfer of Undertakings Protection of Employment Regulations.

3.0 Avoiding Compulsory Redundancy

The council is committed to providing a stable environment and to ensure, as far as possible, security of employment for its employees. However, organisational changes, levels of funding, the need for change because of technological, legal or

organisational developments may lead to a requirement for a reduction in the number of posts required or a reduction in the duties of posts.

The council recognises that as a good employer it is committed to making necessary adjustments to staffing levels in the least detrimental way. It will try to avoid compulsory redundancy as far as practicable and ensure that early retirement, voluntary redundancy, together with natural wastage and redeployment are the preferred means of adjusting the council's staffing levels.

To keep the number of redundancies to a minimum, alternative courses of action will be reviewed i.e.

- A restriction or freeze on recruitment, combined with reductions by natural wastage.
- A reduction or limitation of overtime, with the exception of essential overtime.
- Where practical the termination of employment of any agency worker or casual employee.
- A call for volunteers from relevant service areas and in exceptional circumstances from across the whole council, to express an interest in early retirement or voluntary redundancy (under the schemes operated by the council). All applications will be considered in the light of the needs of the service and the council's financial interests.
- In any redundancy situation the HR group will seek to match jobs with employees who have expressed an interest in Early Retirement/Voluntary Redundancy.
- Where appropriate, employees will be redeployed into vacancies. In this event the council will retain the right to determine the suitability of employees for redeployment taking into account the individual's skills and experience and the need for retraining to achieve the required level of competence.

4.0 Consultation

There is a statutory duty to consult with the recognised trade union(s) about employees likely to be affected by the proposed redundancies or by measures taken in connection with those proposed redundancies. This applies even where those vulnerable to redundancy are not union members.

Management will provide the trade unions with the following information:

- The reasons for the proposed redundancies.
- The numbers and categories of employees who may be made redundant.
- The total number of employees currently employed in each section/work area affected.
- The proposed method in which employees will be selected for redundancy.

- How the dismissals are to be carried out, including the procedures to be followed and the period over which the redundancies will be implemented.

Formal consultation with the trade unions will take place as follows:

- As much consultation as is reasonably practical where fewer than 20 jobs are affected.
- A minimum of 30 days' consultation where 20 or more jobs are to be made redundant.
- A minimum of 90 days' consultation where 100 or more jobs are to be made redundant.

The objectives of consultation will be to:

- Inform employees and/or their representatives of the process.
- Avoid the need for redundancies wherever possible.
- Mitigate the consequences of any dismissals.

If it becomes necessary for the council to consider compulsory redundancies, management will notify employees at the earliest possible opportunity of the reasons for the potential redundancy situation and of their proposals.

Consultation with employees and employee representatives must be meaningful and will occur whilst the redundancies are still at the proposal stage.

Once provisional selections for redundancy have been made, individuals will be informed that they have been selected for redundancy and will be invited to put forward suggestions or make representations on this selection.

5.0 Redundancy Selection Procedure

5.1 Selection Pool

When identifying and seeking agreement from the respective trade unions on the selection pool of employees, particular regard will be taken:

- To the extent to which employees' jobs are interchangeable;
- To the employees' contractual job descriptions; and
- As to whether other employees are engaged on 'like work' in other parts of the authority.
- That in accordance with the Equality Act 2010 consideration will be given to making reasonable adjustments to the redundancy selection criteria to ensure that any affected disabled employees are not at any substantial disadvantage by the selection criteria.
- Employees who possess specific skills, which will be needed for the future viability of the reduced service, may be excluded from the selection 'pool'.

Consultation with the recognised Trade Unions will take place as early as possible and will be an opportunity for the Trade Unions to discuss any selection or redeployment proposals thereby maximising the concept of a joint approach to organisational change.

5.2 Selection Method

If the need for compulsory redundancies cannot be averted, selection will be made by undertaking a formal interview process. This selection process will identify those employees who will be retained, based on the revised structures, job descriptions and person specifications. The aim of this process is to retain a balanced workforce whilst affording equity of treatment to all employees.

Interviews will be conducted by a senior manager and a senior representative from H.R.

There will be a particular emphasis on:

- The level of knowledge and experience to be able to perform at a high standard.
- The level of willingness and attitude towards undertaking tasks and flexibility of approach.

Best practice will be followed using the job description and person specification to develop a question list. It is essential that in compiling the person specification any criteria relating to personal qualities or circumstances should not be potentially discriminatory. The job description should be clear and precise and the person specifications define a clear distinction between essential and desirable criteria.

This selection method will be designed to be as objective and fair as possible. Each panel member will score individuals independently then the ratings are averaged to determine the selection. Occupational testing may also be used to assist in the interview process. Employees who are selected for redundancy will be provided with feedback on their selection scores by the manager undertaking the selection interviews.

5.3 Bumping/Transferred Redundancy

Bumping (transferred redundancy but remains in law a redundancy) occurs where employee A is redeployed into another role as a consequence of his position being made redundant and employee B (who performs that role) is dismissed in place of employee A.

The council may consider applying 'Bumping' in certain circumstances with Directors/Assistant Directors deciding whether bumping would be appropriate and take into account the skills, experience and qualifications of the officers involved.

6.0 Entitlements/Redundancy Pay

To qualify for a redundancy payment an employee must have at least two years continuous service with SLDC or other relevant service as set out in The Redundancy Payments –

Continuity of Employment in Local Government, (Modification) Order 1999 (as amended).

Redundancy payments will be made using the statutory scale of payments (maximum thirty weeks), which is calculated according to the individual employee's age, length of service and weekly pay, as per appendix A.

The calculation for a redundancy payment will be based on an employee's actual contractual week's pay and not the statutory limit.

If an employee accepts an alternative offer of employment with a relevant Local Government employer (or other employer included in the Redundancy Payments (Local Government) Modification Order 1999 as amended) and commences employment within four weeks of their termination date they will not be entitled to a redundancy payment and if they have already received payment they will be required to repay it. If however the employee commences employment with an employer not covered by the Modification Order they will remain entitled to the redundancy payment.

To qualify for redundancy pay, employees must work (as applicable) up to the date on which the notice of redundancy expires, their termination date. Employees wishing to leave before the notice period expires may do so with the manager's prior agreement, which, if granted, will entitle the employee to redundancy pay. Employees leaving early before the expiry of their notice date without consent may lose their right to a redundancy payment.

7.0 Pension Benefits For Local Government Pension Scheme Members

In accordance with the Local Government Pension Regulations (LGPS) no immediate pension benefits are payable to employees under 55 years of age at the date they leave the councils employment.

Employees aged 55 or over will be entitled to the immediate unreduced payment of their LGPS benefits.

8.0 Notice of Redundancy

An employee dismissed by reason of redundancy will be entitled to receive notice of their dismissal in accordance with the terms of their contract of employment, which is at least one week for every year of recognised/continuous service with a minimum of four weeks and a maximum of 12 weeks as applicable.

The council reserves the right to make a payment in lieu of notice at its discretion.

9.0 Suitable Alternative Employment

The council recognises its' duty to continue to seek suitable alternative employment for employees facing redundancy and this will continue up to the date the

employee's employment ceases. Suitable alternative employment will normally be at the same grade or one grade lower and exceptions would have to be approved by the Assistant Director of the service after discussion with the HR Services Manager.

In determining whether a post is suitable certain factors such as job content, responsibility, status, terms and conditions, including pay and other benefits, location, working hours and job prospects should be taken into consideration, each offer of suitable alternative employment will be judged on its merit.

An employee 'at risk' due to redundancy will lose their right to any redundancy entitlement if they unreasonably refuse an offer of suitable alternative employment.

The council's Redeployment Policy outlines the procedure that will be followed in seeking suitable alternative employment for employees 'at risk' of redundancy.

9.1 Trial Period

All employees have the right to a trial period of four weeks in a new post.

Trial periods are particularly important in situations where the suitability for the post is disputed or unclear, trial periods may also help to establish in disability cases, if all reasonable adjustments have been made or identify others that are reasonable and appropriate.

Managers are required to regularly discuss the progress of a trial period with the employee and formal review meetings must take place one week prior to the end of the review period. If there are any issues regarding the trial HR must be consulted prior to the review meeting.

A trial period will only be extended over the 4-week period in exceptional circumstances and only after discussion with the HR Services Manager.

Where an employee is offered different alternative posts, there may be more than one trial period. Notice periods will be extended to accommodate these circumstances.

10.0 Time off for training and/or to look for new employment

Employees who has been given notice of redundancy will be granted reasonable time off work with pay during their notice period, in order to look for new employment and/or undertake training to equip them with the necessary skills for future employment.

11.0 Appeal Against Selection for Redundancy

An employee will have the right of appeal against their selection for redundancy. This must be in writing, stating the grounds of appeal, within 10 working days (two weeks) of being

informed of their selection. The appeal will be sent to the HR Services Manager who will organise for a Director to hear the appeal.

12.0 Appeal Against Suitable Alternative Employment

In cases where employees have been offered suitable employment but reject the offer as not suitable, they will have the right of appeal. This must be in writing within 10 working days of receipt of the offer to the HR Services Manager who will organise for a Director to hear the appeal.

13.0 Appeal Against Dismissal Due to Redundancy

An employee will have the right of appeal against their dismissal due to redundancy. Appeals must be lodged by writing to the HR Services Manager within 10 working days of being informed in writing of their dismissal. When lodging an appeal, the employee should state the grounds of appeal.

The HR Services Manager will make the necessary arrangements to hold a HR Appeals Panel Hearing. Hearings will normally take place within 20 working days of receipt of the employee's appeal. Both the employee and the manager will be given at least 10 working days' notice, in writing of the date, time and venue of the HR Appeals Panel Hearing.

The procedure to be followed at an Appeals Panel Hearing is to be found in Appendix B.

14.0 Links to Other Policies/Guidelines

Other council policies that may be relevant include:

- Early Retirement/Voluntary Redundancy Policy
- Pay Protection Policy
- Recruitment and Selection Policy
- Redeployment Policy

15.0 Review of the Policy

The Policy will be reviewed by August 2015 or earlier in the light of operating experience and/or changes in legislation or financial constraints facing the council.

Appendices to this Document

Appendix A: Statutory Redundancy Pay Ready Reckoner

Appendix B: Procedure for an Appeals Panel Hearing (Redundancy)