



Redundancy Policy

Produced by: Human Resources

Gateshead Council
Redundancy Policy – Revised November 2011

Index

Policy Statement

1. The Aim
2. Definition of Redundancy
3. Who this policy applies to
4. Commitments
5. Additional Information

Procedure

1. Initial Consultations
2. Statutory Consultation
3. Objectives of Consultation
4. Notifications
5. Voluntary Redundancy
6. Compulsory Redundancies
7. Appeals Procedure
8. Assistance in Finding other Work
9. Advice / Guidance
10. Redundancy Payments

Redundancy Policy Statement

1. The Aim of the policy

The Council's commitment to the provision of excellent services will inevitably lead to changes to the way services are delivered and this may have an impact on the employees involved in the process. The Council is committed to maintaining job security for all its employees where possible. Where changes require a reduction in the workforce, the Council will consider other options available through the HR Framework before the use of compulsory redundancy.

The purpose of this policy is to determine how employees will be treated if it becomes necessary to make them redundant, this includes both voluntary and compulsory redundancies.

2. Definition of Redundancy:

In legal terms, redundancy occurs when an employee is dismissed because:

- ◆ the employer closes down the business or Service, or
- ◆ the employer closes down the employee's workplace, or
- ◆ there is a diminishing need for employees to do work of a particular kind.

3. Who the policy applies to

This policy applies to all employees (not including employees in schools) including those with fixed term or temporary contracts. To qualify for a redundancy payment an employee will have to have at least 2 years continuous service.

4. Commitments

Redundancy will only be undertaken where all other options have been explored and excluded including, redeployment within the Council and voluntary early retirement.

4.1 The Council

In all cases of Redundancy the Council will ensure that:

- ◆ It uses its best endeavours to avoid compulsory redundancy, and will seek to retain skills and knowledge within the organisation wherever possible.
- ◆ It enters into consultations with trade unions, workplace representatives and individual employees as soon as the possibility of a reduction in the size of the workforce arises in order to discuss the

problem and explore the options for avoiding, reducing or mitigating the consequences of redundancies.

- ◆ Where compulsory redundancy is inevitable they will handle the redundancy in the most fair, consistent and sympathetic manner possible and minimise as far as possible any hardship that may be suffered by the employees concerned.

4.2 The Employee

In all cases of Redundancy we expect the affected employees to:

- ◆ Continue to perform their current role or the role required of them
- ◆ Make themselves available to enter into consultations with management with the aim of discussing the problem and exploring the options for avoiding, reducing or mitigating the consequences of redundancies
- ◆ Undertake an offer of suitable alternative employment and be prepared to consider a wide range of alternative jobs in line with the Council's Redeployment Policy.

5. Additional Information

5.1 Other Council policies that are linked to or relevant to this policy:

- ◆ Redeployment Policy
- ◆ Retirement Policy

5.2. Relevant Legislation and Guidance

- ◆ Trade Union and Labour Relations (Consolidation) Act 1992 (TULR©A)
- ◆ Trade Union Reform and Employment Rights Act 1993
- ◆ Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 and 1999
- ◆ Parts X & XI Employment Rights Act 1996.
- ◆ The Transfer of Undertakings (Protection of Employment) Regulations 1981
- ◆ The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- ◆ Health and Safety (Consultation with Employees) Regulations 1996
- ◆ The Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999
- ◆ The Local Government (Early Termination of Employment)(Discretionary Compensation) (England and Wales) Regulations 2000
- ◆ Department for Department for Business Innovation and Skills legislation leaflet PL833 Redundancy consultation and notification (www.bis.gov.uk)
- ◆ ACAS Guide to Redundancy Handling (www.acas.org.uk)
- ◆ Redundancy Pay Helpline, Telephone Number 0500 848489

- ◆ Redundancy Consultation & Notification [PL833] Redundancy Payments Guide [PL808]
- ◆ Local Government Pension Scheme (Amendment) and (Amendment No 2) Regulations 2006
- ◆ Local Government Pension Scheme (Benefits, Membership and Contribution Regulations) 2007

5.3 Useful Contacts

<p>Department for Business, Innovation and Skills 1 Victoria Street London SW1H 0ET 0207 2155000 www.bis.gov.uk</p>	<p>ACAS Cross House Westgate Road Newcastle upon Tyne NE1 4XX 0191 261 2191 www.acas.org.uk</p>
<p>The Pensions Office Tyne & Wear Pension Fund Hebburn Civic Centre Campbell Park Road Hebburn Tyne & Wear NE31 2SW 0191 424 4141 www.twpf.info</p>	

Redundancy Procedure

In order to minimise the impact of reductions in workforce, the following procedure will be used as a framework, recognising that this may need to be adapted to reflect the particular circumstances surrounding each situation.

1. Initial Consultations

The Group or Strategic Director will need to advise the Strategic Director, Legal & Corporate Services as soon as the likely need for redundancies is identified.

Management will enter into consultations with Trade Unions, workplace representatives and / or individual employees as soon as the Council starts to consider redundancies. The purpose of the consultations is to establish whether the proposed changes can be achieved by means other than redundancy and if not, to try and minimise the number of compulsory redundancies.

Consultations will commence as soon as reasonably practicable and no redundancy notice will be issued until at least 14 days after consultation begins.

As a minimum the Council will recognise its statutory obligations to:

- ◆ begin consultations at the earliest possible opportunity where the number of redundancies proposed are less than 20.
- ◆ begin the consultation process at least 30 days before the first dismissal takes place, where between 20 and 99 redundancies are proposed at one establishment.
- ◆ begin the consultation process at least 90 days before the first dismissal, where the number of redundancies proposed is 100 or more.

The Council will consult with the Trade Union representatives of those at risk of redundancy but also with those who represent employees who may be affected by the measures taken in connection with those dismissals e.g. employees having to take on reallocated work.

2. Statutory Consultation

Statutory consultation notices (Form HR1) will be issued to Trade Unions, workplace representatives or individual employees regarding proposed redundancies detailing:

- ◆ The reason for the proposal.
- ◆ The numbers and descriptions of employees whom it is proposed to dismiss as redundant.
- ◆ The total number of employees of that description employed by the Council at the establishment in question.
- ◆ The proposed method of selecting the employees who may be dismissed.

- ◆ The proposed method of carrying out the dismissals, including the period over which the dismissals are to take effect.
- ◆ The proposed method of calculating the amount of any redundancy payments to be made. All redundancy payments made by the Council will be in accordance with the statutory guidance.

3. Objectives of Consultation

The Council will consult employees and their representatives about:

- ◆ Avoiding the dismissals
- ◆ Reducing the number of employees to be dismissed
- ◆ Mitigating the consequences of the dismissals

Amongst other measures to avoid or minimise redundancies, consideration must be given to the following, subject to the Council's immediate strategic considerations:

- ◆ Restricting the recruitment of new employees other than where this is essential;
- ◆ Restricting the use of subcontracted labour and temporary and casual employees;
- ◆ Reducing overtime and other employment costs;
- ◆ Return of secondees to their parent organisation;
- ◆ Redeploying the affected employees into other Council vacancies
- ◆ Inviting applications for consideration for early retirement and / or voluntary redundancy. Early retirement will be considered in line with the Council's Retirement scheme and is subject always to ensuring that the balance of skills and experience within the remaining workforce is appropriate to the Council's future operating needs.

In addition to those areas above the Council will also consult on:

- ◆ how the selection of employees for redundancy will be applied – for example, will it be appropriate for selection to operate across the Council as a whole or on a Service basis?
- ◆ whether a redundant employee may leave during the notice period, or postpone the date of expiry of notice, without losing any entitlement to a statutory redundancy payment;
- ◆ any retention of benefits where an employee is made compulsorily redundant.

Furthermore, consultation might also cover special arrangements for the treatment of apprentices. It is the responsibility of the Council and the Managing Agent to try and find alternative opportunities for apprentices to complete their apprenticeships within the same industry. Only as a last resort should apprentices be treated as part of the labour force for the purposes of redundancy selection.

Consultation must be undertaken with a view to reaching agreement with the appropriate representatives on these issues, even if employees to be made redundant are volunteers.

3.1 Failure to Consult

Management must contact HR for advice before entering into consultation with the relevant trade unions about proposed redundancies. Failure to consult appropriately with the relevant trade unions about proposed redundancies can lead to a complaint to an employment tribunal and compensation being paid to the employees concerned.

4. Notifications

Where after due consideration of these alternatives, it is considered that the need for redundancies still remains, written details will be given to TU's, workplace representatives or individual employees of the proposals.

The Strategic Director, Legal & Corporate Services will inform the Secretary of State at the Department for Business, Innovation and Skills (BIS) on form HR1 of proposed redundancies in the following circumstances:

- ◆ If 20 – 99 employees at one establishment are being made redundant within a 90 day period or less then 30 days notice will be given
- ◆ If 100 or more employees at one establishment are being made redundant within a 90 day period or less then 90 days notice will be given.

The notice of redundancy must be given to the BIS before giving notice to terminate an employee's contract of employment.

5. Voluntary Redundancy

Prior to making any compulsory redundancies the Council will consider whether any voluntary redundancies can be made.

The Council will invite employees to volunteer to be considered for redundancy. The Council will then select from the list of volunteers those employees who are to be dismissed.

Where the number of volunteers exceeds requirements, the selection criteria will be discussed with the trade unions and employees involved. The Council will discuss the reasons for non-selection with individuals.

Agreement of voluntary redundancy is subject to ensuring that the balance of skills and experience within the remaining workforce is appropriate to the Council's future operating needs. Applications for voluntary redundancy may need to be confined to selected categories of employees to ensure that volunteers do not include employees who may be needed to contribute to the future success of the Council. The Council has the right to decline any application for voluntary redundancy.

6. Compulsory Redundancies

Where voluntary redundancy has not produced suitable or sufficient volunteers, the Council, in consultation with the trade unions, will need to select employees for redundancy.

The Council will ensure that the selection procedure is fair, consistent, objective, and non-discriminatory and in accordance with the Council's Equal Opportunities Policy and Redundancy legislation and best practice. The selection criteria will be clear, objective and precisely defined.

A dismissal on the grounds of redundancy may be considered by an Employment Tribunal to be unfair if the procedure for selection for redundancy has been unfairly applied to the employee(s) concerned or if the way in which it has been carried out has been unreasonable (e.g. without adequate warning or consultation with the appropriate representatives).

Before applying the redundancy selection criteria, it may be necessary to exempt certain employees from the possibility of being selected. This is because they possess, for example, specialist skills, qualifications or experience that are vital to the continuing viability of their group or service and the delivery of its services in the future. This could also mean that certain employees or categories of employees may not be permitted to apply for 'voluntary' redundancy.

Discussion of these factors should take place with the trade unions at the outset where a redundancy situation is being declared. In doing so management would document why these skills, qualifications or experience were crucial to the ongoing viability of their service.

Following these discussions, and in the absence of appropriate volunteers, it may prove necessary to apply a redundancy selection process. This will be based on pre-determined selection criteria against which points will be allocated as appropriate for each employee on each occasion. The attached Note on Application and Weightings sets out the criteria to be used.

The total points allocated for the criteria will be used to place employees in a listing with least points at the top and most points at the bottom. Selection for redundancy will be based upon least points.

Where two or more employees are tied on the same points, further discussion will take place with the Trade Unions. The selection decision will be at the Council's discretion, and will take into account length of service with Gateshead Council.

The selection criteria and associated procedures may also be used in situations where too many employees have volunteered for redundancy.

The Council's Equal Opportunities policy confirms its commitment to ensuring employees are afforded equal and fair treatment in relation to all employment matters. With regard to this procedure, the Council will ensure that no employee is treated less favourably or discriminated against in the application of the redundancy selection criteria.

The relevant service manager, together with a representative of Human Resources, will undertake the selection. The results will be presented to the joint trade unions for their information for use in supporting their members. Those selected will be advised at an interview at which their trade union or a colleague can be present.

Any employee who volunteers or is selected for redundancy, and is a member of the Local Government Pension Scheme (LGPS), will be entitled to early release of their pension benefits as from the date of their termination if they fit the criteria within the scheme regulations for early release of these benefits.

6.1 Notice periods

Employees will be given as much notice of termination as possible, but never less than the period of notice to which the employee is contractually entitled or such other period as may be agreed.

7. Appeals Procedure

If an employee, selected for redundancy, feels that the agreed selection criteria have been unfairly applied in their case, they have the right to appeal to the Council's Personnel Appeals Committee.

If an employee selected for redundancy goes absent the termination will still be made in their absence. They can then take up their right of appeal to the Personnel Appeals Committee.

Any employee who wishes to exercise his / her right of appeal against being selected for redundancy must do so in writing, within 10 working days of receiving their redundancy notice. They should submit their appeal to the Strategic Director, Legal & Corporate Services, clearly stating the reasons for the appeal and provide, where relevant, evidence to support their appeal.

The employee has the right to be accompanied at the Appeal by a colleague or trade union representative. Employees will be notified in writing within 10 days of the Personnel Appeal Committee's decision.

The decision of the Personnel Appeals Committee will be the final decision of the Council in the matter.

8. Assistance in finding other work

8.1 Suitable Alternative Work

The Council must attempt to seek alternative employment for employees under threat or notice of dismissal for redundancy. The Council will follow the procedure detailed in the Redeployment policy when seeking alternative work for employees. The Council will ensure that:

- ◆ If the Strategic Director, Legal & Corporate Services is satisfied that a suitable alternative post has been offered to a redundant employee and declined by him / her, then a redundancy payment will be withheld.
- ◆ Where alternative work cannot be found for redundant employees within the Council, the Economic Development Service may be able to assist them to secure alternative employment outside the Council.

8.2 Trial Period

An employee who is under notice of redundancy is entitled to a trial period in an alternative job. The Council will follow the procedure detailed in the Redeployment policy when employees undertake trial periods.

If the employee works beyond the end of the trial period or an agreed extended period any redundancy entitlement will be lost, as the employee will be deemed to have accepted the new job.

If the new Head of Service wishes to end the new contract within the trial period for a reason connected with the new job, the employee will still receive a redundancy payment under the old contract. If the dismissal is not connected with the redundancy, the employee may lose that entitlement.

8.3 Time off to look for new work / training

Subject to the Council's operational needs, all employees affected by redundancy will be given paid time off work during their notice period to attend interviews or training opportunities. Requests for reasonable time off should be submitted in writing to the Head of Service.

9. Advice / Guidance

The Council's Economic Development Service can provide advice and guidance to employees selected for redundancy on:

- ◆ how to find another job
- ◆ the completion of application forms
- ◆ attending interviews

The Council will also provide counselling to employees, prior to the redundancies taking place, to assist them in dealing with being selected for redundancy. Counselling will be available to those employees who are under notice of redundancy and also to those employees who will be remaining with the Council after the redundancies.

10. Redundancy Payments

All redundancy payments made by the Council will be in accordance with Council policy.

To be entitled to a redundancy payment an employee must have at least two years continuous service. All employees who receive redundancy payments will be given written notification of the way in which their redundancy payment has been calculated.

Redundancy payments are based on the statutory redundancy pay table and are subject to an employee's age and length of service. For each complete year of service, up to a maximum of 20, employees are entitled to:

- for each year of service under 22 years old – ½ a week's pay
- for each year of service at age 22 but under 41 - 1 week's pay
- for each year of service at age 41 or over – 1½ weeks' pay.

The Council applies a multiplier of 1.5 times the number of weeks pay given in the statutory redundancy pay table, giving a maximum of 45 weeks pay.

The same benefits and entitlements will be offered regardless of whether the redundancy is 'voluntary' or 'compulsory'.

This provides for a discretionary compensation payment based on up to 45 weeks statutory redundancy pay. The Council will exercise its power to use actual pay in the calculation of weekly pay and the discretionary compensation would be inclusive of any statutory redundancy payment.

The Redundancy Pay Table is attached below.

Employees aged over 65 will qualify for a redundancy payment if the reason for their dismissal is redundancy.

10.1 Calculation of a week's pay

A week's pay is that which the employee is entitled to under his or her terms of the contract at the calculation date. The calculation date is the date on which the employee receives notice of redundancy.

If the employee's pay varies, the amount of the week's contractual pay is averaged over the 12 weeks prior to the calculation date.

11. Multiple Contracts

Where an employee has multiple contracts with the Council at the point of redundancy, the start date in the contract that they are being made redundant from is used to calculate their redundancy payment. Where an employee has had multiple contracts but only has one contract at the time of redundancy, then their start date in their very first contract is used for calculating their redundancy payment, taking into account any relevant previous continuous service.

Note on Application of criteria and weightings

In most situations where a redundancy situation has been declared, volunteers will be sought in the first instance. However, if there are insufficient volunteers or, as mentioned above, if there is a need to retain specialist skills/experience then the following criteria will be used to select employees to be made redundant.

A reference period is shown below for each of the criteria. The effective date (where the reference period starts from) will be the date the redundancy situation is formally notified to the trade unions and the Section 188 letter is issued. This date will not be altered because of any delay in the process or due to any other circumstances.

Capability (Generic competencies, knowledge, qualifications, skills & experience)

This criterion will assess the quality of work produced by each employee. This will be assessed over a period of the last 12 months prior to the effective date.

This criterion will also look at the employee's behaviour towards their work in assessing their overall capability. The Council's policy defines capability as:

Capability is the ability an employee has to perform his/her duties to a standard that is acceptable to the Council for the effective and efficient delivery of its services. In the normal course of work employees meet and may exceed these standards.

Each employee will be allocated a score based on the Service Manager's assessment of their competence, knowledge, qualification, skill, behaviour and experience in carrying out their role. This assessment will be based upon the degree to which each employee meets or exceeds the requirements set out in the job profile for their job.

As this criterion is essentially looking at an employee's current capability in undertaking their job, any formal documentation, held on the employee's personal file, used to measure or record an employee's competence will be used in making the assessment. This may include an improvement notice/action plan or a letter stating the exceptional work standards of an individual. However, as part of this assessment, reference will **not** be made to an employee's Appraisal & Development documentation or Supervision records where Supervision is used as a support for managers and employees alike

Any formal 'improvement notes' issued for reasons of capability or negligence under the capability or disciplinary procedures will be reflected in this criterion. This is to avoid double counting under criterion (d) Disciplinary Record.

The assessment will look separately at how the employee meets the different elements of the job profile, namely:

- Key roles of the post
- Essential knowledge, qualification and experience requirements.
- Desirable knowledge, qualification and experience requirements.
- Core Competencies appropriate to that level of post drawn from the 'Gateshead Competency Framework'.

After undertaking each separate assessment the Service Manager will then allocate an overall score for this criterion. The Service Manager **must** produce a written note for this criterion on how and why he/she came to that assessment for each employee.

The score will be one of the following:

- | | |
|---|-----------|
| ▪ Exceeds overall requirements of job profile | 20 points |
| ▪ Meets overall requirements of job profile | 15 points |
| ▪ Does not meet all requirements of job profile | 10 points |

Any reasons, which have been formally documented, that explain a temporary fall in the employee's performance will be taken into account.

For jobs that may not have a job profile (e.g. craft workers) one will be produced for this exercise and agreed with the trade unions.

Length of Service.

The period of continuous service with Gateshead Council measured from start date to effective date is used to calculate the employee's length of service, not just the service in their current job.

For employees who have taken a career break of less than 12 months, the time spent on their career break will count as part of their continuous service. For employees who have taken a career break of over 12 months their contract of employment is ended. Therefore, their continuous service start date will be effective from the first day they returned to work from their career break.

Employees will be allocated one point for each full year of continuous service up to a maximum of 20 years (20 points).

Attendance record

An absence is classified as any absence due to sickness, whether self-certified or covered by a medical certificate (fit note), or any form of unauthorised absence.

Before selecting on the basis of attendance, it is essential that the reasons for and extent of any absences be identified. Any absences which directly relate to disability, pregnancy/maternity or industrial disease, industrial accident or industrial assault will be excluded from consideration.

Points will be awarded over a 36-month qualifying period measured prior to the effective date.

This criterion will look to take into account the frequency and total duration of any absences. That is, a score will be allocated for the number of absences and a separate score for the total duration of those absences. A combined score will then be produced:

Number of occasions

- Zero absences = 10 points
- 1 absence = 9 points
- 2 absences = 7 points
- 3 absences = 5 points
- 4 absences = 3 points
- 5 absences = 2 points
- 6 absences = 1 points
- 7+ absences = 0 points

Total number of days

- 0 days = 10 points
- 1 to 5 days = 9 points
- 5¹/₂ to 10 days = 7 points
- 10¹/₂ to 50 days = 5 points
- 50¹/₂ + days = 3 points

Absences after the effective date will not be taken into account.

Absences of ½ day will be counted as one absence.

Absences due to hospital appointments or special leave and recorded as such will not be counted. Where the employee is admitted to hospital and is away from work for more than a day this will be counted as an absence.

Clearly, all types of authorised absence such as annual leave, maternity/paternity leave, etc will not be counted.

Disciplinary record

Formal warnings issued in accordance with the Council's disciplinary procedure will be taken into account here. These will include warnings issued for misconduct but **not** for concerns connected with an employee's capability (improvement notes).

Formal warnings issued for short-term persistent sickness absences will also not be included as this performance issue has already been considered in the 'attendance' criteria.

Points will be awarded with reference to a 24-month qualifying period measured prior to the effective date as follows:

- No warnings on file = 20 points
- Written warning = 15 points
- Final written warning issued within the period of 12-24 months prior to the effective date = 10 points
- Final written warning issued within the last 12 months prior to the effective date = 5 points