

Redundancy & Redeployment Policy

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Redundancy & Redeployment Policy

Scope of the Policy

This policy applies equally to all employees who work for the Council, with the exception of those in statutory chief officer, non-statutory chief officer and deputy chief officer roles where separate procedures will apply. Those procedures are set out in the Council's Constitution.

The following statutory chief officer, non-statutory chief officer and deputy chief officer roles within the Council are exempt, and are instead subject to the Chief Officer Employment Panel and Chief Officer Employment Appeals Panel, as set out in the Constitution and within the Memorandum of Agreement relating to an integrated Shared Workforce structure, between Boston Borough Council, East Lindsey District Council and South Holland District Council, known as the South and East Lincolnshire Councils Partnership (SELCP).

The statutory roles are, as follows:

1. Head of Paid Service
2. Section 151 Officer
3. Monitoring Officer

The Chief Officer roles are, as follows:

1. Chief Executive (if different from the Head of Paid Service)
2. Deputy Chief Executive

The Deputy Chief Officer roles are, as follows:

- Assistant Director – Wellbeing and Community Leadership
- Assistant Director – Regulatory
- Assistant Director – Leisure & Culture
- Assistant Director – Neighbourhoods
- Assistant Director – Corporate
- Assistant Director – Governance & Monitoring Officer
- Assistant Director – Finance
- Assistant Director Housing
- Assistant Director – Economic Growth
- Assistant Director – Planning and Strategic Infrastructure
- Assistant Director – Strategic Projects

- Assistant Director – General Fund Assets
- Assistant Director Strategic Growth & Development

The procedure must be followed in every case of redundancy, regardless of the length of service of the employee(s) and regardless of whether or not the employee(s) qualify for a redundancy payment.

ELDC & BBC - As soon as a potential redundancy situation is identified, a member of the Management Team will notify and discuss with HR before any action is taken. This will ensure that the legal obligations of the Council are met.

SHDC - All and any redundancy activity must first be approved in line with the delegated authority; in most instances, this is Full Council.

Introduction

The Council recognises the value of retaining its employees' skills and experience which contribute to the achievement of its strategic aims and objectives.

It is the overall aim of the Council to ensure, as far as possible, security of employment and the avoidance of compulsory redundancies for its employees through effective business planning.

The Council is committed to the fair and equal treatment of employees and to developing and maintaining employment practices which promote the principles of security and diversity of employment including supporting the mobility of employment.

All employees have access to the 'employee assist' Counselling service as a method of external support where required.

The impact of change can have a varying effect on employees and the Council seeks to ensure that employees are supported throughout, expectations are clear and communication is priority. Redeployment and redundancies may occur as a result of these changes.

Likely outputs of change include:

- Redeployment
- Service Redesign
- Relocation
- TUPE
- Redundancy
- Pay Protection

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1. Responsibilities

1.1 Human Resources Responsibility

- Provide support and advice to managers and employees, as required; Provide support to management in the coordination of the formal collective and individual consultation and overall communication process;
- Work closely with management to ensure that interventions are in place to support wellbeing and minimise the impact of all employees' affected;
- Provide estimates of redundancy pay and superannuation benefits if applicable.
- Issue formal notifications to unions and employees as appropriate;
- Ensure assessments are designed and carried out fairly and objectively where selection for redundancy is required;
- Ensure the selection process for suitable alternative employment is carried out fairly and objectively;
- Ensure due regard has been exercised in relation to the Equality Act (2010) on those groups of employees' affected by the potential redundancies prior to the start of formal consultation.
- Respond to Trade Unions concerns regarding the process; and
- Provide support to management in the coordination of the redeployment process by assisting in identifying suitable alternative redeployment and opportunities for retraining, along with offering advice to employees on job seeking skills.

1.2 People Managers Responsibility

- Work closely with the HR Department to ensure that interventions are in place to support the wellbeing and minimise impact for all those affected;
- Provide accurate, timely and meaningful data for the business case;
- Explore all other avenues with the aim of avoiding or mitigating redundancies;
- Respond to representations made and/or concerns raised by the Trade Unions and/or staff representatives where applicable;
- Actively participate in the collective and individual consultation process;
- Treat all employees fairly and consistently;
- Communicate with employees to keep them fully informed and feedback employee concerns to the HR Department as appropriate;
- Carry out objective assessments where selection for redundancy is required;

- Assist in the redeployment process by identifying suitable alternative employment opportunities; and
- Conduct a review to ensure appropriate skills and experience mix is maintained.
- To take all reasonable steps to avoid and/or minimise the need for redundancy
- Ensure that meaningful consultation and communication takes place with employees and relevant trade union representatives, in accordance with statutory requirements and good employee relations practice
- To ensure that where redundancy is decided the individuals concerned are given as much advance notification as is reasonably possible
- That the employees concerned and their representatives are informed of the decision prior to any public announcement
- Ensure that employees who are declared to be 'at risk' of redundancy have the opportunity to be considered for suitable alternative employment

2. Consultation, Redundancy and At Risk

2.1 Meaningful consultation is a mechanism by which employers can share proposals and ideas with employees' and their representatives and seek their views and comments. It is not the mere passing of information. It involves seeking acceptable solutions to problems through a genuine exchange of views and information and is a two-way process. By consulting, the council is asking employees' to consider proposals and how this may affect them. Also to respond with constructive feedback as to how proposals may or may not be implemented or with alternative ideas. Consultation should be pursued with a view to reaching joint agreement on outcome of the proposals under consideration where possible.

2.2 Redundancy is defined within The Employment Rights Act (1996) under section 139 as follows:

Redundancy:

- (1) For the purposes of this Act an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to-
 - (a) the fact that their employer has ceased or intends to cease-
 - (i) to carry on the business for the purposes of which the employee was employed by them, or

(ii) to carry on that business in the place where the employee was so employed,
or

(b) the fact that the requirements of that business-

(i) for employees to carry out work of a particular kind, or

(ii) for employees to carry out work of a particular kind in the place where the employee was employed by the employer, have ceased or diminished or are expected to cease or diminish.

2.3 Employees who work in posts that are identified as likely to diminish or cease are said to be “at risk” of redundancy.

2.4 The Council will formally notify all employees who work in posts that are likely to reduce, although this does not necessarily mean that they will be made redundant.

3. Early Consultation – Informal

3.1 Early consultation will allow alternatives to redundancy to be explored and for any employees at risk to look for other employment.

3.2 Affected employees will always be advised of the risk of redundancy before any public announcements are made.

3.3 The service lead/people manager (with support from HR) will contact the relevant Trade Union representative(s) to discuss the situation informally and explore any alternatives to redundancy.

3.4 Consideration and evidence of the following should be explored before redundancy is considered;

- Natural wastage;
- Termination of agency or contract employees;
- Voluntary redeployment to other suitable work with retraining where appropriate;
- Reduction or cessation of overtime unless contractual or to cover an emergency; or
- Voluntary retirement of employees

3.5 The Council will consider all requests for voluntary redundancy but reserve the right to turn down any application for voluntary redundancy where it would mean that the Council’s business needs would not be met.

4. Consultation Formal

4.1 Once the above has been exhausted then HR will provide the Trade Unions with the statutory information required, i.e.

- Reasons for the proposals;
- Numbers and descriptions of employees it is proposed to make redundant;
- Total number of employees of any such description employed by the employer at the establishment in question;
- Proposed method of selecting the employees who may be at risk; and
- Proposed method of carrying out the reduction of employees', taking account of any procedure, including the period over which the reductions are to take effect

4.2 If, as part of the consultation process, the designated Trade Union representatives propose alternatives to the redundancies to HR, these will be given serious consideration. They will be formally responded to together with any reasons for the decisions made regarding the proposals.

4.3 Consultation will start when a proposal has been made regarding the consideration of any changes which may result in redundancy or reorganisation but when a final decision has not been made. Statutory redundancy consultation will occur once a decision has been made which may result in redundancies.

4.4 Trade union representatives should be consulted on all redundancy proposals regardless of whether the employees' in question are trade union members.

4.5 Employees' and their representatives must be given reasonable time to be consulted over proposals (less than 20 – at least 4 weeks).

4.6 The period of time varies with the number of proposed redundancies:

- The Law specifies minimum periods of time for consultation as follows:
- If there are to be between 20 and 99 redundancies in any one establishment within a 90 day period, consultation must take place at least 30 days before the dismissal takes effect.
- 100 or more employees within a 90 day period At least 90 days before the redundancies are to be effected, in any event, before giving notice to terminate an employee's contract.

4.7 Notification must be provided to the Redundancy Payments Service (RPS), acting on behalf of the Secretary of State for Business, Energy & Industrial Strategy of the Council's intention to make redundancies, on form HR1 in accordance with the following schedule. At the same time, a copy of the HR1 form should also be given to the trade unions that are being consulted. HR

will ensure this notification is made once notified by relevant managers of the proposals.

- 4.8 Where a post in any revised structure is fundamentally the same as the existing post and there is just one employee for the job, the manager can slot the employee (assimilate them to the new post), taking into account training and development needs, without the need for an interview.
- 4.9 For slotting to take place, the post has to be fundamentally the same. It is a matter of judgement as to whether the post is fundamentally the same taking account of the range, size and scope of the accountabilities, professional requirements and the context in which the post operates. This will usually be outlined during the consultation phase of any proposed changes

5. Informing Employees

- 5.1 Once formal consultations with the Trade Unions have been initiated, all employees declared 'at risk' of redundancy would be addressed collectively, inviting Trade Union colleagues to attend.
- 5.2 All employees affected will be offered the opportunity (in writing) to a 1:1 formal meeting with their People Manager to discuss how the situation affects them personally. Employees have the right to be accompanied by a Trade Union representative.
- 5.3 A member of the HR team will attend the 1:1 to provide support. Notes from the meeting will be recorded and shared after the meeting.
- 5.4 Details of the selection criteria applied will be provided prior to the 1:1 meeting.
- 5.5 People managers need to consider all employees who are absent and make arrangements to include them in the process
- 5.6 At the end of the formal consultation period the Council will agree with the representatives that the consultation period has been completed and will confirm the outcome. At this point if the decision is that the redundancies will have to take place, then it is at this time that the individual employees affected will be notified that they are to be made redundant.
- 5.7 Employees given notice of redundancy are entitled to reasonable time off to seek alternative work or training.

6. Selection for Redundancy

- 6.1 When all alternatives have been explored and there is no alternative to compulsory redundancy, provisional selection for redundancy will be made using a fair, consistent, objective and non-discriminatory selection procedure.
- 6.2 Any assessment will be made using objective and consistent principles and in conjunction with advice from HR.
- 6.3 The law currently gives employees on maternity leave the right to be offered suitable alternative role in advance of colleagues.
- 6.4 Where an employee feels they have been unfairly selected for redundancy they can lodge a grievance through the Council's Procedure.

7. Alternative Employment - Redeployment

- 7.1 Whilst the Councils are committed to seeking to redeploy employees' at risk, it is acknowledged that this will not always be possible. Some reasons for redeployment are as follows:
 - An individual is 'at risk' of redundancy;
 - A period of funding has ceased;
 - Following recommendation for medical redeployment;
 - An outcome of any bullying, harassment or grievance complaint; or
 - Other reasons, as agreed with their manager and HR.
- 7.2 Regardless of how the need for redeployment has arisen, any such opportunities should be offered on a fair and equitable basis. Employees should be appointed to such on the basis of whether they are able to carry out the role with reasonable support and training, rather than whether they are demonstrably the best candidate for the position.
- 7.3 Normally, suitable alternative employment means finding a like for like job role within the organisation. However the Council will do everything they can to find a suitably similar position depending on the individual needs and circumstances, which will be discussed with the employee.
- 7.4 Employees' at risk of redundancy or those who have been served notice of redundancy will automatically have all suitable vacancies 'ringfenced' to them.

- 7.5 Employees 'at risk' of redundancy have an entitlement to reasonable time off with pay to look for alternative employment. Such time off must be approved in advance.
- 7.6 Where more than one person, under notice of redundancy, meets the essential criteria for a particular post, interviews will be held and the most suitable person will be appointed.
- 7.7 The employee will take up the role with a trial period, which is four weeks and can be extended to 8/12 weeks if retraining is required and this should be made by an agreement in writing specifying the date on which the trial period ends and sets out the employee's terms and conditions after it ends.
- 7.8 The purpose of the trial period is to give the employee a chance to see whether the new job is suitable without losing their right to a redundancy payment. The employee has the right to terminate the trial period if the role is proving unsuitable.
- 7.9 If the employee works beyond the 4 week trial period (or the jointly agreed extended period), any entitlement to a redundancy payment will be lost because the employee will be deemed to have accepted the new employment.
- 7.10 If a suitable job offer is made which is broadly comparable to the existing job (e.g. grade, job content, status, place of work etc.) and the employee unreasonably refuses it there may be no liability to make a redundancy payment.
- 7.11 The Council aims to provide Pay Protection where redeployment impacts them financially, see Councils Pay protection statement.

7.12

ELDC Employees who take alternative employment with the Council to avoid redundancy, and incur additional travelling costs as a result of a change of work base, will be entitled to excess travel expenses for a period of up to 2.5 years.

BBC - If an employee is offered and accepts employment in another establishment of the Council within reasonable daily travelling distance of his/her home but involving additional distance and cost, the Council may provide some financial assistance. This is unlikely to occur whilst all of the establishments of the Council are within the Borough of Boston. Consideration would be given where the place of work changed to outside of the Borough depending on distance to be travelled and any other relevant circumstances.

SHDC Employees incurring additional daily travelling expenses as a result of redeployment may be eligible to be reimbursed extra travelling costs

incurred as a direct result of their redeployment, subject to any HMRC guidance. Entitlement to disturbance allowance will cease following a period of 2 years or should the employee secure another role within the Councils

8. Redundancy Payments

- 8.1 An employee must have 2 years continuous Council service since the age of 18 in order to receive a redundancy payment.
- 8.2 Provided the employee meets the above criteria, the Council will base the redundancy payment (inline with special severance payments guidelines) on the actual salary at the time of the redundancy (not the statutory limit).
- 8.3 An employee made redundant will receive the appropriate leave entitlement up to the date of leaving the Council's employment. In the event that leave already taken or arranged when redundancy is declared will exceed this entitlement, consideration will be given to waiving the right to recover the excess - dependant on the circumstances at the time that redundancies are being considered.
- 8.4 The value of all unused annual leave is to be considered remuneration and as such will be paid via payroll with appropriate tax and National Insurance deductions made.
- 8.5 Pay and benefits are taxed in the normal way while notice of redundancy is being served.
- 8.6 Where an employee made redundant is in receipt of a salary sacrifice, the Council will give sympathetic consideration to permitted repayment of the loan on the original agreed terms, or longer in the case of hardship.
- 8.7 Employees made redundant, or who accept early retirement as an alternative to redundancy, will not be required to repay financial assistance given to them for qualifications or training.
- 8.8 Employees who, on leaving Council employment, receive a redundancy payment should not be re-employed by the Council in any capacity for a period of **at least** four complete calendar weeks (a calendar week being judged to start on a Sunday) after the leaving date.

8.9 ELDC only - The Council will calculate an employee's redundancy payment based on the statutory formula contained in the 2000 Regulations (using an actual week's pay) and then multiply that amount x2. Under this discretion the maximum compensation payment is 60 weeks. This discretion reflects the Council's wish to award discretionary compensation to an employee whose employment is terminated on the grounds of redundancy.

9. Notice Period

9.1 An employee made redundant will be given notice (or pay in lieu of notice) in accordance with the contract of employment.

10. TUPE

10.1 If the Council is transferring work to another organisation then employees will be covered by TUPE Regulations 2006. In this situation the Council usually transfers work to the new organisation with existing employees'. Therefore there will not be a redundancy situation.

10.2 An employee may not wish to transfer to the new organisation and if they choose not to transfer they are treated as having resigned. The employee is not therefore in a redundancy situation.

10.3 The main consequences of TUPE are:

- The new employer has to take over the contracts of employment of the employees on existing terms and conditions
- All rights, duties, powers and liabilities are transferred
- Employees have continuity of employment for all rights
- Any dismissal connected with the transfer is automatically unfair, unless the employer can show an economic, technical or organisational reason (ETO) which will result in changes to the workforce.
- Collective agreements with recognised trade unions, including an agreed redundancy policy, are transferred to the new employer
- Therefore, as there is no dismissal, there will be no redundancy payment.

11. Appeal Process

11.1 Terminating employment by way of redundancy is classed as dismissal under Section 98 (2) of the Employment Rights Act 1996. Therefore employees have the normal right to appeal.

11.2 An employee aggrieved as to their selection for redundancy or redeployment in any part of this procedure, will have the right of appeal against the

dismissal/redeployment to the Chief Executive or nominated member of the Management Team. Notice of appeal must be lodged with HR within 10 working days of receipt of written notification of the redundancy or redeployment.

11.3 No right of appeal will exist in respect of the reason for declaring redundancies or requiring redeployment.

11.4 The effective date of termination will remain that quoted in the letter giving notice of redundancy or redeployment.

12. Misconduct During Notice Period

12.1 The employee should adhere to the Council's Code of Conduct during the notice period.

12.2 If any employee is found to be guilty of a breach of conduct during their notice period, they lose their right to a redundancy payment.