

Document Name	Redundancy and Discretionary Compensation Policy
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Responsible Business Manager	Tracey Piper

## **REDUNDANCY AND DISCRETIONARY COMPENSATION POLICY**

This policy sets out the arrangements for dealing with both redundancy and discretionary compensation awarded for redundancy, efficiency termination and early retirement.

For the purpose of this policy the terms Chief Officer and Deputy Chief Officer<sup>1</sup> are as defined in Section 2 of the Local Government and Housing Act 1989.

**For ease of reference this policy has been split into two parts.**

### **Part 1 - REDUNDANCY POLICY**

#### **1.0 Objectives of the Policy**

1.1 Whilst it is the Council's intention to plan ahead as far as possible in order to safeguard security of employment, it is recognised that changes may occur within the organisation which affect the need for employees to do work of a particular kind. In such circumstances, the objectives of the Council through this policy are to:-

- maximise job security and continuity of employment;
- minimise the need for compulsory redundancy;
- ensure that redundant employees are treated fairly and consistently; and,
- comply with all relevant legislation.

#### **2.0 Scope of the Policy**

2.1 This policy applies to any employee of the Council whose employment is terminated wholly or mainly due to redundancy as defined in Paragraph 3.1 below or efficiency termination or early retirement.

#### **3.0 Definition of Redundancy**

3.1 The term redundancy is defined in the Employment Rights Act 1996 (Section 139) as a dismissal attributable wholly or mainly to:

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

#### **4.0 Action to Minimise Redundancies**

4.1 Wherever possible the Council will take action, to avoid redundancies by:

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<sup>1</sup> Any reference to a Deputy Chief Officer in this policy means Business Manager

- releasing any temporary employees (whose contracts are coming to the end of their agreed duration) and any agency workers with less than one year's service to provide vacancies for employees 'at risk';
- facilitating reductions through natural wastage (e.g. retirement, resignations);
- reducing overtime;
- identifying existing vacancies either for deletion to make the necessary savings or to offer as redeployment opportunities where appropriate for employees who are 'at risk';
- offering employees the opportunity to apply for voluntary redundancy (VR) where their release could provide redeployment opportunities for employees 'at risk'. Note: not all applications for VR will be accepted and some employees may be declared compulsorily redundant in advance or in preference to accepting volunteers for redundancy (Refer to Appendix 1);
- freezing relevant vacancies or advertising in-house in the first instance to ensure redeployment opportunities are maximised;
- offering personal counselling and retraining to 'at risk' employees to maximise opportunities for redeployment;

## 5.0 Consultation with Recognised Trades Unions

5.1 The Council will consult with recognised Trades Unions over proposed redundancies, including selection pools and selection criteria. This may be via ad hoc meetings or working parties as appropriate, although it is expected that, wherever practicable, the Joint Consultative Committee (JCC) will be involved at some stage in the process. In circumstances where a report is required to be submitted to the JCC the Council will refer to the Statement on Procedure for Consulting on Redundancies as detailed within Appendix 2.

5.2 The minimum notice periods that will be given are as follows:

- up to 19 employees at one establishment - at the earliest opportunity;
- 20 to 99 employees at one establishment - at least 30 days in advance of dismissal;
- 100 or more employees at one establishment - at least 45 days in advance of dismissal.

Redundancy notices will not be issued until collective and individual consultation has been completed. Notice may be given before the end of the minimum period if the consultation is genuinely complete.

The dismissal itself will not take effect until the minimum period has expired and individual notice periods have been observed. The date a dismissal takes effect may, therefore, also depend upon the statutory period of notice which applies to an individual.

5.3 The written information to be disclosed is:

- the reasons for the proposals;

- (b) the numbers and descriptions of employees the Council proposes to dismiss as redundant;
- (c) the total number of employees of any such description employed by the Council at the establishment in question;
- (d) the way in which employees will be selected for redundancy;
- (e) the proposed method of carrying out the dismissals, taking account of any agreed procedures, including the period over which the dismissals are to take effect;
- (f) the proposed method of calculating the amount of any redundancy payments to be made to those who are dismissed;
- (g) the number of agency workers engaged by the Council, where they are working and the type of work they are doing.

5.4 A fixed-term contract that has reached the agreed termination date will be excluded from the requirement to consult collectively. However, the expiry of a fixed term contract will not be excluded if the Council is proposing to dismiss the employee as redundant and the dismissal will take effect **before** the point at which it was agreed in the contract that it would expire.

5.5 The Council representative will consider and reply to any points made by the Trades Unions and, if appropriate, give reasons for rejecting them.

5.6 In order for the legal requirement to consult to take effect, an employer must propose to make 20 or more employees redundant at 'one establishment'. When interpreting legislation the European Court of Justice (ECJ) have said that 'establishment' means "depending on the circumstances, **the unit** to which the workers made redundant are assigned to carry out their duties".

In order to establish whether a workplace can be classed as an establishment, the Council will consider the following:

- (a) is it a distinct entity?
- (b) does it have a degree of permanence and stability?
- (c) does it have the ability to carry out the tasks it has been assigned?
- (d) does it have a workforce, technical means and organisational structure to allow it to carry out its function?

Depending on the answers to these questions 'establishment' can mean more than one place or a place at which the employees do not habitually work. Taking this into consideration the Council intend to treat "one establishment" as meaning the whole of the organisation until such time as the EJC have reached a decision on the exact definition.

6.0 Arrangements regarding the notification to the Secretary of State for Business, Innovation and Skills are set out below:

6.1 Where there is a likelihood of 20 or more redundancies at any one 'establishment' taking place within 90 days or less, notification to the Secretary of State for Business Innovation and Skills will be made on the appropriate form (HR1). The notice periods are as set out in Paragraph 5.2.

A copy of the Notification Form (HR1) will be forwarded to the representatives of the recognised Trades Unions.

## 7.0 Selection Criteria for Redundancy

7.1 Where it is necessary for the Council to declare a post redundant in accordance with Section 3, fair, consistent, objective and non-discriminatory selection criteria will be established. These will be different depending on the circumstances of the redundancy situation and will be subject to consultation with the Trades Unions, taking into consideration such factors as:

- the skills and attainments of the individual(s) concerned;
- job knowledge;
- suitability of the individual(s) for further training;
- the individual's record of service, attendance and performance;

Where insufficient data is available, selection for redundancy may be by some other method.

7.2 In circumstances where the Council decide to stop doing something (e.g. the activities cease) it may not be necessary to apply the selection criteria given that the whole workforce responsible for carrying out that activity would be directly affected.

## 8.0 Compensation for Redundancy

8.1 Details setting out the arrangements for compensation are included in Part 2 of this policy.

## 9.0 Exceptions

9.1 Employees shall not be entitled to any form of redundancy, early retirement or efficiency payment/compensation if:

- they are dismissed for reasons of misconduct, with or without notice;
- they have commenced work with another organisation listed on the Modifications order<sup>2</sup> within four weeks of the date of termination of their employment;

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<sup>2</sup> Redundancy Payments (Continuity of Employment in Local Government (Modification) Order 1999.

- they have unreasonably refused to accept or apply for suitable alternative employment with the Council or another body listed on the 'Modification Order';
- they leave their employment before the expiry of their notice period, except in the circumstances referred to in Paragraph 12.3 below;
- their employment is being transferred to another employer under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE).

## 10.0 Retrospective Pay Awards

10.1 If a retrospective pay award is notified after the date of termination of employment then the redundancy payment will be recalculated and any arrears due paid.

## 11.0 Taxation of Payments

11.1 All redundancy payments will be subject to deduction of tax and national insurance contributions in accordance with Inland Revenue rules.

11.2 Compensation for loss of office including lump sum statutory payments or amounts paid under the terms of a settlement agreement are tax free for the first £30,000. This excludes any payments in lieu of notice which are classed as emoluments from earnings as a consequence of the employment and are taxable as such under Section 19 of the Income and Corporation Taxes Act (ICTA) 1988.

11.3 Lump sum pension benefits are not taxable but annual pensions are taxable. Also, any employee who receives a return of contributions will have to pay tax.

## 12.0 Notice of Dismissal

12.1 The statutory or contractual period (whichever is the longer) of notice of dismissal on the grounds of redundancy shall be applied.

12.2 Notice to terminate an individual's contract of employment on the grounds of redundancy may only be issued by a Business Manager or above.

12.3 An employee may leave before the expiry of the above period if:

- he/she agrees in writing to vary or waive their right to notice and any payment in lieu thereof, involving no loss of unfair dismissal or redundancy payment rights;
- he/she gives written counter-notice (which may be less than the statutory or contractual period) after being given notice by the Council – involving no loss of unfair dismissal or redundancy payment rights.

12.4 All employees issued with a notice to terminate their employment on the grounds of redundancy will be afforded the right of appeal in accordance with Paragraph 16 of this policy.

## 13.0 Alternative Employment

- 13.1 Reasonable attempts will be made to find suitable alternative employment for redundant employees.
- 13.2 Employees who do not accept or unreasonably refuse offers of suitable alternative employment with the Council made before termination (and effective within 4 weeks of it) will forfeit their rights to any redundancy compensation payment. The onus is on the Council to show both suitability of offer and unreasonableness of refusal.
- 13.3 "Suitability" means being substantially equivalent to the previous employment of each particular employee. The whole of the job must be considered; no one single factor is decisive. Factors in the previous role which may be taken into account include skill/task, net pay, hours of work, place of work, time and cost of travelling, working conditions, effect on employee's health, fringe benefits, status, and whether the work is temporary.
- 13.4 "Reasonableness" concerns whether each particular employee taking into account his/her personal circumstances, were being reasonable in refusing the offer. Relevant factors may include a late or vague offer by the council, insufficient consideration of the offer by the employee, housing, schooling for children, refusal of spouse to move, dependants to care for, age, health, unsociable hours and future job security.
- 13.5 The offer made should be in writing, clearly showing sufficient detail of the significant differences from the previous employment.
- 13.6 An employee who accepts an offer of alternative employment is allowed a trial period to see if the work is really suitable. Where alternative employment is offered and accepted in a redundancy situation, it is the Council's policy to operate a trial period of four weeks in the new post. This time period may be extended to allow reasonable time for training by written agreement at the beginning of the trial period. The trial period is a statutory requirement enabling both the employee and the Council to assess whether or not the post is genuinely suitable for the employee. The Council will arrange a review meeting with the employee towards the end of the trial period to discuss whether or not the new post is in fact suitable for him/her, taking into account how the employee has performed, the amount of training required (if any) and any other relevant factors. If it is objectively established that the post is not suitable for the employee, his/her employment will be terminated. Management reserves the right to make the final decision on this matter, although the views of the employee will be taken into account. In the event that the Council decide to terminate the employee's employment at the end of the trial period, he/she will retain the right to a redundancy payment in accordance with the policy. The relevant date for the purposes of calculating redundancy pay in these circumstances will be the date on which the employee's original job ended (and not the date that marked the end of the trial period).
- 13.7 Employees incurring additional daily travelling expenses as a result of redeployment will be reimbursed additional travelling costs in accordance with the Council's current policy.
- 14.0 Time Off
- 14.1 Employees under notice of redundancy will be given reasonable time off with pay to look for another job or to arrange training to help find alternative employment.

## 15.0 Advice and Assistance

15.1 The Council will do everything possible to assist employees faced with redundancy. This will include, if required, advice and assistance in obtaining alternative employment, advice on financial management and benefits available from the Government.

## 16.0 Disputes and Appeals

16.1 Any dispute(s) arising from the interpretation of this policy and / or associated procedures should be considered by the JCC prior to referral to the Chief Executive who will ultimately have the discretion to determine any disputes (having due regard to any views expressed by the JCC).

16.2 In circumstances where a dismissal notice is issued to an individual they will be afforded the right of appeal. Any such appeal will normally be heard by a Deputy Chief Officer (Business Manager) or above not previously involved in the dismissal process and/or decision, except where the appeal is made by a Chief Officer as defined within the Constitution (Article 12 refers) when the appeal will be heard by a Member panel. (see Appendix 3 – Appeals Hearing Procedure)

16.3 If an individual wishes to appeal against the decision to terminate their contract of employment they should do so by notifying the relevant Chief Officer/Deputy Chief Officer in writing clearly stating the grounds of the appeal within 10 days of receipt of their dismissal notice. A copy of the appeal should also be sent to Human Resources. Following receipt of an appeal the relevant Chief Officer/Deputy Chief Officer will invite the employee to attend an Appeal Hearing, which will be held as soon as possible but in any event within 20 days of the date of the notification of the appeal.

16.4 The Appellant will be given written notice of the Appeal Hearing at least 10 days in advance of the time and place of the hearing. He/she may be represented or assisted by a workplace colleague, a Trades Union representative or an official employed by a Trades Union during the hearing.

16.5 Papers (including the statement of case of both parties) shall be exchanged at least 7 days before the date of the hearing, together with details of any witnesses to be called by either party. The Appellant shall be provided, on request, with all relevant documentation, (e.g. contract of employment, copies of original correspondence subject to this not being privileged information).

16.6 Any request from either side for the period of notice in respect of a hearing and/or the exchange of papers to be extended shall not be unreasonably refused.

16.7 The decision will normally be announced to the Appellant (and the representative) and the Authority's representative personally and will be confirmed in writing to the parties concerned within 7 days.

16.8 The decision of the Chairperson/Appeals Panel will be final.



17.0 Appointment of Former Staff/Consultants

17.1 Any ex-employee who has taken voluntary redundancy or early retirement must not be engaged as a consultant to the Council without a formal committee resolution being made prior to such appointment / engagement.

17.2 The Council will not presume against re-employing former members of staff who have received a payment for redundancy, severance or any other reasons defined under the terms of a settlement agreement if the Council is satisfied that the individual is the best candidate for the post.

17.3 The Council will not presume against employing individuals who have received severance or termination payments by organisations listed on the Redundancy Modifications Order if the Council is satisfied that the individuals are the best candidates for the posts.

18.0 Monitoring and Review

18.1 Nothing in this policy is intended to remove or reduce an individual's statutory rights. This policy will be reviewed by Human Resources following consultation with the Trade Unions in response to changes in relevant legislation and/or other Council policies, procedures or agreements.

## Voluntary Redundancies

1. A voluntary redundancy programme will only be considered in circumstances where there is a genuine redundancy situation. For this to occur there must be:
  - an actual or intended closure of a business;
  - a closure of a particular place of work; or
  - a diminishing need for employees to carry out work of a particular kind.
2. When the Council has to consider redundancies management will notify employees at the earliest possible opportunity of the reason(s) for the potential redundancy situation and its proposals<sup>3</sup>.
3. Invitations to volunteer for redundancy will be offered to employees in all business units/grades affected by the proposals.
4. At the discretion of management, employees in other business units/grades who are not directly affected may also be invited to put themselves forward for voluntary redundancy so that employees who would otherwise be 'at risk' of redundancy can transfer into their roles. This process is often referred to as 'bumping'.
5. Invitations to volunteer for redundancy will be communicated to the relevant employees in writing via a Chief's Briefing or an article on the Intranet.
6. The opportunity to volunteer for redundancy will be available for a defined period and the notification will clearly state the closing date for applications. Employees will be able to request estimates of their redundancy entitlements before making an application (Form 1). Application forms will be provided for employees to use if they wish to apply for voluntary redundancy (Refer to Form 2).
7. It should be noted that expressing an interest in or volunteering for redundancy will not amount to a resignation and will not be held against the employee concerned if his/her application is refused or withdrawn.
8. Management reserves absolute discretion to decide whether or not to accept an application for voluntary redundancy. The decision will depend on the Council's need to retain the types of knowledge and skills that are believed to be essential to meet its future business aims, the need to retain a balance of people with different skills, and the overall situation at the time.
9. Management's decision to accept or reject an application is final.
10. Where an employee's application for voluntary redundancy is accepted, the employee will be notified of this in writing as soon as possible after the closing date for applications. Thereafter a meeting will be set up with the employee to discuss and agree the timing of his/her redundancy and to confirm entitlement to notice, final pay and benefits, and redundancy pay.

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<sup>3</sup> In an attempt to mitigate the need to make any employees compulsorily redundant the Council may, as an early measure, invite employees to volunteer for redundancy.

11. Where an employee's application for voluntary redundancy is rejected, the Council will, on request, discuss with the employee whether or not he/she might be eligible for early retirement/flexible early retirement instead. The criteria for an employee's eligibility for early retirement will depend, in each case, on whether or not the employee meets the relevant criteria defined within the Local Government Pension Scheme (assuming that the employee is a member of the Scheme). If an employee is eligible for early retirement, the terms of this will be notified to him/her under separate cover.
12. Employees who volunteer for redundancy will be entitled to redundancy pay as outlined within Paragraph 8 of the policy.
13. At the Council's discretion, employees who volunteer and are accepted for redundancy may be offered a termination settlement that is higher than the level of redundancy pay payable to employees who are selected compulsorily. If this is the case, the Council may publish details of the proposed financial terms that will be offered at the time invitations to volunteer are communicated.

CONFIDENTIAL

To: Human Resources

**VOLUNTARY REDUNDANCY – REQUEST FOR ESTIMATE OF BENEFITS**

Please provide an estimate of benefits should I choose to formally apply to be considered for release on Voluntary Redundancy terms.

<b>Name:</b>	<b>Section:</b>
<b>Date of Birth:</b>	<b>Age:</b>
<b>Continuous Service Date (Redundancy):</b> Date of continuous service with Newark and Sherwood District Council (NSDC) or with a body listed under the Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999):	<b>Member of Local Government Pension Scheme</b>  * <b>Yes / No (delete as applicable)</b>

I understand that at this stage of the process I have not formally applied to be considered for Voluntary Redundancy and that unless I submit a formal application form no further action will be taken following provision of estimated benefits.

**Employee Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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OFFICE USE ONLY:

DATE FORM RECEIVED	
DATE INFORMATION SUPPLIED TO EMPLOYEE	
DETAILS CAPTURED ON SPREADSHEET	
COPY OF FORM RETAINED ON VR FILE	

**APPLICATION FOR VOLUNTARY REDUNDANCY**

<p>Due to budgetary reasons, the Council is currently contemplating redundancies. As a result, we are asking employees to consider whether or not they would like to volunteer for redundancy. If you wish to apply for voluntary redundancy, please complete the form below in full and return it to <b>Human Resources by {{date}}</b></p>	
Your name	
Your business unit	
Your job title	
Your employee number	
Number of hours worked	
Date of commencement of employment at Newark & Sherwood District Council (NSDC)	
Date of continuous service with NSDC or with a body listed under the Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999.	
<p>I wish to apply for voluntary redundancy. I understand that the Council is not obliged to accept my application for voluntary redundancy.</p>	
<p>Signed</p>	
<p>Date</p>	
<p>If your application for voluntary redundancy is accepted, you will be notified in writing and a meeting will be set up to discuss the timing and circumstances of your redundancy and to discuss your entitlement to notice and redundancy pay on termination.</p>	

### **Statement on Procedure for Consulting on Redundancies where reports are due to be submitted to a Committee.**

It is not possible to specify precisely the order to be followed as it can be affected by issues such as the number of potential redundancies, the reasons for the potential redundancies, and the timing of Member involvement in the process (where applicable<sup>4</sup>). In circumstances where a report is due to be submitted to Members we would encourage Chief Officers/Deputy Chief Officers to follow the stages listed below:-

1. The relevant Chief Officer/Deputy Chief officer will arrange for the local Trades Union representative(s) or Branch Secretary of the Union(s) recognised by the Council to be briefed about the proposals and discuss possible alternative solutions which may be relevant for Members to consider. The Trades Union representatives may arrange for their full-time officers to be involved if they so wish.
2. Once the relevant committee report has been drafted, the Chief Officer/Deputy Chief Officer should, where practicable, send it to the representative of the recognised Trades Union nominated to receive such reports for union comment on the proposals. Normally this will be at least one week in advance of the agenda meeting. If the Chief Officer/Deputy Chief Officer wishes that the report be kept confidential he/she should make it clear to the Trades Union:
  - whether the Trade Union representative can discuss the report's contents at this stage with their members, and in particular members within the business unit directly affected by the proposals;
  - when the report will be made available to members of the relevant Committee;
  - when the report will be made available to staff;
  - whether, after circulation, the report is to be treated as a public or confidential Council report.
3. The Trades Unions' written or verbal responses should be sent to the relevant Chief Officer/Deputy Chief Officer and where these have been provided in writing they should be included within the report. If they are not received in time, details will be circulated under separate cover prior to or at the meeting.
4. The timing of any meetings with employees may vary. In some instances meetings may be held before the report is released. In other instances meetings may be held either just before, or just after the relevant Committee meeting. Trades Union(s) representatives will be invited to the meeting and the Chief Officer/Deputy Chief Officer will brief the representatives beforehand on the key issues that will be put to employees. If requested to do so, the Trades Union representative(s) will be expected by management to keep this information totally confidential until the meeting with employees has taken place.

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<sup>4</sup> Reports will only be submitted to a Committee of the Council in circumstances where the Council is required to serve a HR1 or where the report has been submitted for other purposes e.g. a change to Council Services which results in the deletion of a substantive post.

5. After the Committee meeting, if redundancies are approved (subject to ongoing consultation with the Trades Union(s) and staff directly affected by the proposals) the Chief Officer/Deputy Chief Officer, in consultation with Human Resources will formally consult on the selection procedure to be used for redundancy selection. Reference will be made to the guidance notes currently in place.

**APPEAL AGAINST DISMISSAL ON THE GROUNDS OF REDUNDANCY, EARLY RETIREMENT AND  
EFFICIENCY  
PROCEDURE AT APPEAL HEARING**

1. A Chief Officer (not previously involved in the dismissal process and/or decision) assisted by a member of Human Resources, Legal officer or other appropriate officer will hear all appeals relating to dismissal on the grounds of redundancy, early retirement or efficiency save for those circumstances referred to in paragraph 16.2 of the Redundancy Policy. In these circumstances the appeal will be referred on to a Member panel hearing.
2. After introductions the Chairperson will set out the purpose and procedure of the appeal hearing.
3. The Management Representative will explain the reasons for the original decision.
4. Witnesses may be called by the Management Representative to give evidence.
5. The Management Representative and any Witnesses called by the manager, having given evidence to support management's decision may then be the subject of examination by the Appellant (or representative).
6. The witnesses may then be re-examined by the Management Representative upon the evidence provided through his/her examination.
7. The Chairperson and supporting officer(s) may ask questions of the Management Representative and Witnesses on the submitted evidence. Following completion of questioning any Management Witnesses present will be asked to leave (see notes below).
8. The Appellant (or their representative) will state their case for appeal. The Appellant may be called to present evidence.
9. Witnesses may be called by the Appellant (or their representative) to give evidence.
10. The Appellant and any Witnesses called, having given evidence in support of the appeal, may then be the subject of examination by the Management Representative.
11. The Witness may then be re-examined by the Appellant (or representative) upon the evidence provided through his or her examination.
12. The Chairperson and supporting officer(s) may ask questions of the Appellant and Witnesses on the submitted evidence. Following completion of questioning any Witnesses present will be asked to leave (see notes below).
13. The Management Representative shall have the opportunity to sum up the case.
14. The Appellant (or representative) shall have the opportunity to sum up the case.



15. The Appellant (and representative) and the Management Representatives shall withdraw.
16. The Chairperson, in the presence of the Officer acting as Secretary and/or the Senior Officer and advisor(s) will deliberate in private only recalling the Appellant (and representative) and the Management Representative to clear points of uncertainty on evidence already given. If recall is necessary, both parties will return, notwithstanding that only one of them is concerned with the point giving rise to doubt.
17. The decision will normally be announced to the Appellant (and the representative) and the Management Representative verbally and will be confirmed in writing to the parties concerned within 5 working days.

**NOTES:**

- (a) Where either party intends to call a Witness to provide evidence in accordance with proceedings that Witness is only allowed to be present whilst they are presenting evidence or are required to be available for questioning. After completion of each stage Witnesses will be instructed not to discuss the case in any way until the appeal has been determined.
  - (b) Each statement of case should identify beforehand the names of the Witnesses to be called to give evidence. Other Witnesses may be called only in exceptional circumstances at the discretion of the Chairperson. It will be for the representative presenting the case to determine his/her Witnesses although the Chairperson may rule out of order a particular question (prior to it being answered).
  - (c) Documents not contained in the statement of case will not normally be admitted although the Chairperson may accept these in exceptional circumstances. In such cases the other party may ask for a reasonable adjournment in order to consider the document(s).
- NB: It should be noted that a Witness cannot also fulfil the role of companion in the case of an appeal hearing.

## **PART TWO**

### **POLICY ON DISCRETIONARY COMPENSATION FOR REDUNDANCY, EFFICIENCY TERMINATION AND EARLY RETIREMENT**

#### **1.0 Policy Statement**

This policy covers redundancy, efficiency terminations and early retirement with the exception of flexible early retirement which is detailed in a separate policy.

#### **2.0 Principles**

As a matter of general principle:

- 2.1 All applications for redundancy, efficiency or early retirement (with the exception of applications from Chief Officers as defined within the Constitution) will be considered by the Discretionary Payments Panel (DPP).
- 2.2 In the case of any voluntary redundancy, compulsory redundancy or early retirement in respect of any member of staff where the cost to the Council exceeds £75,000, the Chief Executive in consultation with the DPP will not determine the matter until he has first consulted a Member Panel comprising the Leaders of all political groups of the Council.
- 2.3 Any application for redundancy, efficiency or early retirement must be presented to the DPP using the agreed Business Case Pro-forma.
- 2.4 In cases of redundancy, efficiency or early retirement (other than on the grounds of ill health) a budget contribution must be identified to fund the redundancy and capitalised actuarial cost relating to pension strain (where applicable). The case presented must demonstrate that it fits within the budget framework and provides for payback as quickly as possible and in any case within one year (other than in exceptional circumstances).
- 2.5 Applications for voluntary redundancy (VR) will be considered on an individual basis in the context of business and service needs. There will be no guarantee that requests will be approved.
- 2.6 The relative impact that the early release of the individual will have in enabling the Council to protect the employment of another individual, or individuals, in order to achieve necessary budget savings (for example through "bumping"), may also be taken into consideration.
- 2.7 Compulsory redundancy will only be instigated after all reasonable and available means of managing business needs have been considered and exhausted. Payments to individuals that are made compulsorily redundant will be calculated in accordance with Regulations 5 and 6 of the 2006 Regulations (refer to paragraph 4.2).

- 2.8 To ensure an unfettered approach, each case of will be considered on its own merit, taking into account individual circumstances.
- 2.9 In all cases, consideration of redeployment to a suitable alternative post is a legal requirement and will be given priority before any consideration of a severance payment ( i.e. where there is a need to make reductions in a particular area of work and an individual’s skill set could transfer elsewhere in the Council, avoiding the need for redundancy).
- 2.10 Should a reasonable offer of redeployment into a suitable alternative post (involving a reasonably comparable grade, status and location) be declined, the employee will be deemed to have waived their right to a redundancy payment or early release of pension.
- 2.11 Personal circumstances may be taken into consideration for the determination of the level of any enhancement as identified in Paragraph 3.1 (see below).
- 2.12 The Council retain the right to enter into a Settlement Agreement with any individual whose employment is being terminated on the grounds of redundancy, efficiency termination or early retirement as appropriate.

### **3.0 Procedure**

NOTE: For all cases of voluntary and compulsory redundancy, early retirement or efficiency termination, managers should take all appropriate steps to avoid redundancy situations occurring (e.g. natural wastage, redeployment, retraining, reorganisation of work, “bumping” of employment across the Council) before any business case is submitted

- 3.1 The DPP will consider any information that the employee is willing to share regarding extenuating personal circumstances. Examples of extenuating personal circumstances may include but are not restricted to:
- major ill health of the individual short of such severity as would qualify them for retirement on ill health grounds;
  - immediate caring responsibilities for others which is current or imminent and cannot be easily achieved if the individual remains in employment (having given due regard to flexible working provisions);
  - evidence of any serious financial hardship that the individual concerned wishes to disclose.
- 3.2 The DPP will consider the business case submitted in writing by the Chief Officer/Deputy Chief Officer in order to select posts for redundancy and/or determine whether efficiency/early retirement requests can be approved.

### **4.0 Compensation for Redundancy**

#### **4.1 Redundancy Payment**

Employees may be entitled to a redundancy payment if they have been continuously employed for at least 2 years and are subject to dismissal as a consequence of redundancy.

#### 4.2 **Compensation Payment**

For employees that are eligible to receive a redundancy payment the Council will also have regard to the following discretions:

- (i) Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

##### Regulation 5

- the Council will calculate redundancy payments on an actual week's pay where this exceeds the statutory week's pay limit (Refer to Appendix 1);

##### Regulation 6

- the Council may choose to award an additional compensatory payment up to and including the weeks set out in the compensatory weeks calculator appended to this policy for individuals that are due to be made redundant (Refer to Appendix 2). The maximum number of weeks available under the policy (which also includes statutory weeks) is 45. Any decision to award compensatory weeks outside of Regulation 5 will be taken by the Discretionary Payments Panel (DPP). Each case will be judged on its own merits and where appropriate compensation payments will be calculated in accordance with the methodology defined by the DPP.

*Note: Discretion under Regulation 6 can only be considered if the employee does not ask the Council to make an award of additional pension under Regulation 31 (see below).*

- (ii) For employees who are active members of the Local Government Pension Scheme (i.e. a current contributor) the Council will also have regard to the following discretion:

Local Government Pension Scheme Regulations 2013

##### Regulation 31

Regulation 31, of the Local Government Pension Scheme Regulations 2013 provides employers with the option to grant additional pension up to the a maximum specified amount i.e. specified amount i.e. £6,675 per annum as at 1<sup>st</sup> April 2015 (reviewed annually)

When exercising this discretion the Council have chosen to apply an **Award by Conversion**, details of which are set out below:

- the Council may consider awarding additional pension which is actuarially equivalent in value to the lump sum compensation payment that may have otherwise been payable under Regulation 6 of the 2006 Regulations set out above, provided that the award of additional pension does not exceed the statutory limit.

The Council will only consider applying this discretion to existing employees and will not apply to employees within the six month timescale after they have left the employ of the Council.

*Note: When exercising this discretion the Council will have regard to the 2006 Compensation Regulations which prevent an employee from splitting an award i.e. take part of the award as an additional pension (up to the aforementioned limits) and the balance as a lump sum compensatory payment. In practice therefore an employee can only covert all, of the compensatory award (other than the redundancy payment payable under Regulation 5) or nothing.*

The discretions included within this policy confer no contractual entitlements and the Council retain the right to change the policy at any time. Only the version of the policy which is current at the time a relevant event occurs (to the employee) will be the one applied to that employee.

## **5.0 Termination on the grounds of Efficiency**

- 5.1 Applications for termination of employment on the grounds of efficiency will only be considered from employees that have at least 2 years membership of the LGPS.
- 5.2 Each case will be considered on its merits to determine what if any efficiency can be released by allowing a particular individual to leave the authority. A business case outlining the total costs arising from facilitating the individuals release and efficiencies to be delivered should be produced by the relevant Chief Officer/Deputy Chief Officer using the standard template.
- 5.3 The DPP will only consider enhancements in exceptional circumstances and where it can be clearly demonstrated that savings can be delivered within year to the general fund which outweigh any costs relating to releasing the individual early on the grounds of efficiency. Release on the grounds of efficiency is entirely discretionary on the part of the Council.

## **6.0 Early Retirement**

- 6.1 It is possible for a member to retire early and receive their LGPS at any age on or after their 55<sup>th</sup> birthday but the pension will be reduced on an actuarial basis depending on how long before Normal Pension Age (NPA) a person is retiring.
- 6.2 **Employer's consent for early retirement (the 85 Year Rule)**

An amendment to the Local Government Pension Scheme on the 1<sup>st</sup> April 2008 removed the '85 year' rule but gave protection for all members (who were in the Scheme on that date) who would attain the age of 60 by 31<sup>st</sup> March 2016 and phased protection for those attaining age 60 between 1<sup>st</sup> April 2016 and 31<sup>st</sup> March 2020.

*Note: The 85 year rule is satisfied if your age at the date you draw your benefits and your scheme membership (each in whole years) add up to 85 or more.*

The LGPS (Transitional Provisions and Savings) Regulations 2014 provide that whilst the '85 year' rule does not automatically apply in full if the employee decides to voluntarily draw their benefits on or after age 55 and before age 60 the Council can choose to switch the '85 year' rule back on. Where the Council choose to switch the '85 year' rule back on the pension situation will be no different to that which applied under the 2008 scheme where an employer consented to payment of benefits on or after 55 and before age 60.

- In exercising this discretion the Council has a general policy not to waive, in whole or in part, actuarial reducing in benefits which a member voluntarily draws before normal pension age other than in exceptional or extenuating personal circumstances (refer to paragraph 3.1).

If the Council were minded to consider applying the discretion in light of the above it would only consider switching the '85 year' rule back on if the cost of the pension strain can be met through the salary savings to be achieved in year 1 and the salary savings for the post including any associated on-costs are removed from the Council's salary budget in any subsequent years.

If after consideration the Council choose not to switch the '85 year' rule back on the scheme member would suffer an actuarial reduction in the event they chose to voluntarily access their benefits on or after age 55 and before age 60.

## **7.0 Disputes and Appeal**

7.1 The Council as an employing authority have elected to have regard to Regulation 31 of the Local Government Pension Scheme Regulations 2013 by allowing an award by conversion should an employee request to do so (Para 4.1 refers). Appeals against any discretionary awards should therefore be progressed as follows:

7.1.1 For those employees who are:

- i) not active members of the LGPS;
- ii) not eligible for immediate release of LGPS benefits;
- or
- iii) do not elect to convert their lump sum awards to pension

any internal appeals procedure will apply. This is in accordance with the LG (Early Term of Emp)(Discr Comp) (E&W) Regs 2006. Should any employee wish to exercise their right under the internal procedure, they should write to the Business Manager HR, OD and Legal Services within the timescale as stipulated in the offer letter. The submission should clearly state the individual's grounds of appeal and all relevant supporting information should be provided. The appeal will then be considered by a new DPP which will consist of one member of the original panel, the Business Manager HR, OD and Legal Services and one Director not involved in the original decision. The decision of the panel will be final.

7.1.2 For those employees who **are**:

- i) active members of the LGPS,
  - ii) eligible for immediate release of benefits
- and

iii) have requested an award by conversion

in accordance with Reg 31 of the LGPS Regulations 2013 should they wish to raise an appeal they should do so in accordance with the Council's Internal Disputes Resolution Policy and Procedure.

Statutory Redundancy Pay table

Age	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
17	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
18	1	1½	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
19	1	1½	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
20	1	1½	2	2½	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
21	1	1½	2	2½	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-
22	1	1½	2	2½	3	3½	-	-	-	-	-	-	-	-	-	-	-	-	-
23	1½	2	2½	3	3½	4	4½	-	-	-	-	-	-	-	-	-	-	-	-
24	2	2½	3	3½	4	4½	5	5½	-	-	-	-	-	-	-	-	-	-	-
25	2	3	3½	4	4½	5	5½	6	6½	-	-	-	-	-	-	-	-	-	-
26	2	3	4	4½	5	5½	6	6½	7	7½	-	-	-	-	-	-	-	-	-
27	2	3	4	5	5½	6	6½	7	7½	8	8½	-	-	-	-	-	-	-	-
28	2	3	4	5	6	6½	7	7½	8	8½	9	9½	-	-	-	-	-	-	-
29	2	3	4	5	6	7	7½	8	8½	9	9½	10	10½	-	-	-	-	-	-
30	2	3	4	5	6	7	8	8½	9	9½	10	10½	11	11½	-	-	-	-	-
31	2	3	4	5	6	7	8	9	9½	10	10½	11	11½	12	12½	-	-	-	-
32	2	3	4	5	6	7	8	9	10	10½	11	11½	12	12½	13	13½	-	-	-
33	2	3	4	5	6	7	8	9	10	11	11½	12	12½	13	13½	14	14½	-	-
34	2	3	4	5	6	7	8	9	10	11	12	12½	13	13½	14	14½	15	15½	-
35	2	3	4	5	6	7	8	9	10	11	12	13	13½	14	14½	15	15½	16	16½
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14½	15	15½	16	16½	17
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15½	16	16½	17	17½
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16½	17	17½	18
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17½	18	18½
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18½	19
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19½
42	2½	3½	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
44	3	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½
45	3	4½	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
46	3	4½	6	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½
47	3	4½	6	7½	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
48	3	4½	6	7½	9	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½
49	3	4½	6	7½	9	10½	12	13	14	15	16	17	18	19	20	21	22	23	24
50	3	4½	6	7½	9	10½	12	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½
51	3	4½	6	7½	9	10½	12	13½	15	16	17	18	19	20	21	22	23	24	25
52	3	4½	6	7½	9	10½	12	13½	15	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½
53	3	4½	6	7½	9	10½	12	13½	15	16½	18	19	20	21	22	23	24	25	26
54	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	20½	21½	22½	23½	24½	25½	26½
55	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22	23	24	25	26	27
56	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	23½	24½	25½	26½	27½
57	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25	26	27	28
58	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	26½	27½	28½
59	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28	29
60	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	29½
61+	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	30



COMPENSATORY WEEKS CALCULATOR

Appendix 2

SERVICE (YEARS)																																									
Age	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40		
17	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
18	2	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
19	2	3	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
20	2	3	4	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
21	2	3	4	6	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
22	2	3	4	6	7	8	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
23	3	4	6	7	8	9	10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
24	4	6	7	8	9	10	11	12	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
25	4	7	8	9	10	11	12	13	14	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
26	4	7	9	10	11	12	13	14	15	17	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
27	4	7	9	11	12	13	14	15	17	18	19	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
28	4	7	9	11	13	14	15	17	18	19	20	21	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
29	4	7	9	11	13	15	17	18	19	20	21	22	23	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
30	4	7	9	11	13	15	18	19	20	21	22	23	24	25	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
31	4	7	9	11	13	15	18	20	21	22	23	24	25	26	28	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
32	4	7	9	11	13	15	18	20	22	23	24	25	26	28	29	30	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
33	4	7	9	11	13	15	18	20	22	24	25	26	28	29	30	31	32	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
34	4	7	9	11	13	15	18	20	22	24	26	28	29	30	31	32	33	34	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
35	4	7	9	11	13	15	18	20	22	24	26	29	30	31	32	33	34	35	36	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
36	4	7	9	11	13	15	18	20	22	24	26	29	31	32	33	34	35	36	37	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
37	4	7	9	11	13	15	18	20	22	24	26	29	31	33	34	35	36	37	39	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
38	4	7	9	11	13	15	18	20	22	24	26	29	31	33	35	36	37	39	40	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-



