

# WATFORD BOROUGH COUNCIL

## Redundancy Policy

### 1.0 Introduction

In the 21st century, the Council is inevitably affected by the need to respond effectively to the wider changes affecting local government as a whole and to provide customer- orientated, value for money services. This means that changes to the workforce may sometimes be required because of budget cuts, organisational reviews or restructurings, new legislation or changes to alternative methods of service delivery. This may involve individual posts, whole service areas or parts of service areas.

This procedure is designed to deal with redundancy situations.

### 2.0 Definition of Redundancy

An employee is deemed to be redundant when the dismissal is attributable wholly or mainly due to the fact that:

a) the employer has ceased (or intends to cease) to:

- 1) carry on the business for the propose of which the employee was employed by it, or
- 2) carry on that business in the place where the employee was so employed, or

b) the requirements of that business have ceased or diminished (or are expected to cease or diminish) for employees to:

- 1) carry out work of a particular kind, or
- 2) carry out work of a particular kind in the place where they are so employed.

Redundancy situations can be complex and emotionally distressing for those involved. The Council is committed to handling redundancy situations professionally and sensitively. As soon as line managers are aware that a redundancy situation may occur, they should seek advice from Human Resources.

### 3.0 Who does the policy apply to?

This policy applies to all permanent staff employed under NJC for Local Government terms and conditions (including staff employed on fixed term contracts in certain circumstances). It does not apply to staff employed under JNC for Chief Officers conditions or statutory officers who both have a separate redundancy process laid down in their national conditions(See Appendix 1).

### 4.0 Consultation

4.1 At the earliest opportunity, meaningful consultation should take place with

- The recognised trade union/s

- The individual employees affected

## 4.2 Collective Consultation

4.2.1 Collective consultation with the recognised unions is legally required where the Council is proposing to make 20 or more employees redundant over a period of 90 days or less, within a minimum of

- 30 days before the proposed date of dismissal where 20-99 employees are involved, or
- 90 days before the proposed date of dismissal where 100 or more employees are involved.

The purpose of the consultation is to explore ways to avoid or reduce the number of redundancies where practical or to mitigate the consequences. This will involve consulting the union/s on proposed selection criteria.

Human Resources will write to the relevant union setting out:

- The reasons for the proposals
- The numbers and types of employees proposed
- The total number of employees of this type employed at the establishment in question
- The proposed selection criteria
- How the dismissals would be carried out and over what period they would take effect
- The method of calculating any additional redundancy payment (above statutory redundancy pay).

The consultations will be conducted 'with a view to reaching agreement' where possible. However, there will be occasions where agreement is not possible.

4.2.2 Where fewer than 20 redundancies are proposed the Council will continue to consult the union/s on those proposals normally for up to 30 days as part of constructive industrial relations. However, in those cases, the statutory dismissal procedure applies (described under Individual Consultation).

4.2.3 The Council will consider the appropriateness of the following potential measures where redundancy situations arise with a view to avoiding or minimising redundancy:

- Reduction of employee numbers through labour turnover
- Restricting or freezing external recruitment, where appropriate
- Reduction of the number of agency staff in areas where redundancies had been identified
- Seeking volunteers for redundancy, from the group/s affected.
- Redeployment and, if possible, retraining to other posts within the organisation
- Redeployment to suitable posts in other parts of the organisation covered by agency staff
- Reduction or elimination of overtime working (where appropriate), especially in affected areas
- Potentially seeking volunteers for part-time working, reduced hours or job sharing.
- Practical suggestions from trade unions/employees

- *If appropriate*, seeking volunteers from areas of work where staff possess transferable skills or experience (where practical)

#### 4.3 Individual Consultation

Consulting individual employees who face potential redundancy is essential.

Individual consultation should commence as soon as possible after collective consultation has commenced. At these meetings the employee should be given the opportunity to be accompanied by a union representative or work colleague.

The immediate line manager should normally conduct the individual employee consultation accompanied by an HR officer.

At the first meeting, the employee should be advised that they are at risk of redundancy and the reasons for this; the proposed process for selection and how any redundancy process would be handled. They should be given the opportunity to put forward any alternatives to redundancy and to raise any concerns, comments or objections to the proposals. At the first meeting, they will receive a letter setting out the reasons why their post is potentially redundant and inviting them to a second meeting to discuss the proposal further at which the employee can put forward any reasons why their post should not be redundant. Any alternatives, issues or concerns raised by the employee need to be considered and responded to by their manager following this second meeting, preferably at a further meeting.

During individual consultation the possible option of redeployment should also be explained.

At the end of the consultation period, if the employee is selected for redundancy under the process the employee should be seen again by their line manager and an HR Officer and this should be explained to them sympathetically. They should receive information on the redundancy process and a redeployment interview (and skills profile) should be offered. The employee should also be advised of their right of appeal. The employee should then be sent regular copies of the vacancy bulletin.

The outcome of the individual consultation should be sent to the employee in writing giving reasons why any alternatives to their redundancy have not been accepted, where this is the case, and advising them in writing of their right of appeal. This letter should precede a letter formally giving them notice of redundancy. Again their right of appeal should be included in this letter.

Potentially redundant employees should be made aware of the availability of the Employee Assistance Programme and outplacement counseling (which is offered as standard in all redundancy situations and is paid for by the employing department)

#### 4.4 Right of Appeal

For redundancy situations involving less than 20 employees, all employees have a right to appeal against their selection for redundancy to a Corporate Director (accompanied by an HR representative). This appeal must be registered by writing to the Head of HR within 10 working days of receiving their notice letter. An appeal hearing will be convened and the outcome of the appeal will be notified to the employee within 10 working days of the date of the hearing. The response is given in person and in writing.

## **5 Selection for Redundancy**

5.1 There are essentially two main types of redundancy situations:

- a) those involving the reduction of numbers within one category of employee which involves the use of selection for redundancy criteria (Category A)
- b) organisational restructurings within a service area (Category B)

5.2 Selection for Redundancy – Category A

Where it is necessary to reduce the number of employees in a specific job category, the recognised trade union/s for that occupational group will be consulted on the proposed selection criteria. For compulsory redundancies objective selection criteria will be determined which are appropriate to each situation. However, it is anticipated that some or all of the following criteria will be utilised to aid selection.

- Length of service
- Attendance records (excluding disability or maternity - related sickness absence, parental and dependency leave)
- Disciplinary records (excluding expired warnings)
- Skills, competencies, qualifications
- Performance records.

Appraisals may be used as a source of objective evidence in relation to competencies and performance standards. 'Performance standards' refers to how well the employee performs the tasks within his/her role.

Where selection is based on a matrix using some or all of those selection criteria, points would be awarded by a panel utilising the evidence in respect of each criteria used.

5.3 Selection for Redundancy – Category B

### **Organisational Re-structuring**

If the redundancy situation involves a restructuring where posts in the former structure are being deleted and a smaller number of new posts are being created in specific job roles a new structure, employees who are potentially redundant from this service area, will be invited to apply for the new posts on a "ring fenced basis" to posts which are identified through consultation as potentially suitable alternative employment. A job description for the new post will be prepared, job evaluated by the line manager and the relevant HR Officer (and moderated by the Moderation panel) A person specification will be prepared based on the job description and the experience/skills/attitudes required to fulfill the job requirements to an acceptable standard. The council will make every effort to offer suitable alternative employment . Where suitable alternative employment is offered this will be on the basis of a trial period.(Please see paragraph 6).

Displaced employees will receive first consideration for those ring fenced roles if they meet the essential requirements of the person specification for posts on the same grade or (one grade) below, or could do the role with reasonable training (ie within an agreed trial period). Trial periods will normally be a minimum of 4 weeks and a maximum of 12 weeks. The selection process will normally consist of an application form, interview and job-related assessment centre.

If more than one potentially redundant employee applies from the same service area for a specific role, an appointment will normally be made on merit (i.e. the employee who most closely meets the requirements of the role based on the person specification and the outcome of the selection process will be appointed). The only exceptions to this are in relation to employees on maternity leave or disabled employees. (Please see paragraph 5.4 for details.) If no one is successful from this service area, the posts should be advertised to redundant employees from other service areas on the same grade or below. Potentially redundant employees who appear to meet the person specification should be interviewed before other applicants are considered.

Where the grade for new posts is higher than a potentially redundant employee's grade a decision needs to be made by the council as to whether this post does constitute "suitable alternative employment". If it does constitute suitable alternative employment they will be considered for it on this basis. If it is not considered to be suitable alternative employment but a potential redeployment option, if they meet the specification they should be interviewed/attend an assessment centre but appointment from all applicants would be on merit (i.e. the applicant who most closely met the requirements of the role based on the person specification and the outcome of the selection process will be appointed). In circumstances where potentially redundant employees are redeployed to lower graded posts the Protected Earnings Policy will apply.

Where in a particular job role, the same number of jobs exist in the new structure as in the existing structure and the job description remains the same or very closely similar, if the council identifies that this role is suitable alternative employment, the roles will be offered to existing incumbents on the basis of a trial period.

#### 5.4 Voluntary Redundancy

If the number of employees in a service area where redundancies are proposed exceeds requirements, employees may volunteer to be considered for redundancy.

CMB will consider each application for voluntary redundancy and will use fair and objective selection criteria, to determine which applications are approved. Fundamental to this process will be the Council's need to retain specific knowledge, skills and a balanced workforce relevant to the future needs of the Council.

##### Selection Criteria

The selection criteria will be management led. In seeking to agree selection criteria, the most important consideration for the council is to maintain a balanced workforce after the redundancies have been carried out. Some of the selection criteria commonly used would be:

- Skills/Experience/ Relevant Qualifications
- Standard of work performance or aptitude for work (evidenced by appraisals and subsequent reports)

- Attendance or disciplinary record
- Length of service
- Costs of actuarial strain

However it must be made clear that all requests for voluntary redundancy will be considered on a case by case basis. Requests will be considered by CMB in conjunction with the Head of HR, who will have the authority to refuse requests in the interest of the Council. Employees refused requests for voluntary redundancy will be advised of the reasons

## **6.0 Offering Suitable Alternative Employment**

6.1 The council has a duty to consider offering “suitable alternative employment” (subject to availability). HR should be consulted in all cases. An offer of suitable alternative employment should be put in writing and explain how the new employment differs from the previous role and must be made before the contract ends. The new role must start either immediately after the end of the old job or after an interval of not more than 4 weeks.

6.2 What is deemed as “suitable alternative employment”

The “suitability” of alternative employment is commonly defined as:

1. Pay: - similar terms and conditions that are equivalent to or very similar to those the employee currently earns.
2. Status: - of equal status, e.g. reporting lines, and number of direct reports etc.
3. Location: - within reasonable traveling distance or within the constraints of a contractual mobility clause.
4. Working Environment: - this may be of particular importance to an employee with a health problem.
5. Hours of Work: - any change in shift pattern, total number of hours or days worked must take account of an employee’s personal circumstances, e.g. childcare responsibilities.

6.3 Pregnant and Disabled Employees

Where an employee has commenced her maternity leave and is selected for redundancy, the employee has a statutory right to be offered suitable alternative employment and there is no need for the employee to compete for a suitable alternative post. If no suitable alternative employment is available then the employee would be made redundant. Suitable alternative employment is normally work of a similar kind and on similar terms and conditions to those of her substantive role (e.g. if she is in an administrative job, a similar administrative role would normally constitute suitable alternative employment). Employees on maternity leave should always be consulted on their potential redundancy situation and effectively have “first refusal” for suitable alternative roles over other candidates.

Where a potential alternative is of a different nature and higher salary level, this may not constitute suitable alternative employment. In all cases, Human Resources should be consulted.

In the event that there are a number of employees seeking redeployment to the same post and all are equally suitable for the post, based on current legislation, priority should be given to women returning from maternity leave under threat of redundancy, followed by redeployees with a disability and lastly employees who have received notice of redundancy.

#### 6.4 Trial Period

Employees who accept alternative work have a right to a minimum trial period of four weeks under legislation. A longer trial period can be agreed to allow for necessary training by agreement in writing between the council and the employee. This will normally be done through the offer letter. The normal maximum trial period will be 12 weeks. If the employee accepts the post at the end of the trial period, s/he forfeits the right to a redundancy payment in respect of his/her former post. If the employer does not consider the trial period to be successful, the employee can be made redundant at the end of the trial period. Similarly, if the employee regards the post as not meeting the criteria for suitable alternative employment, s/he can leave during/at the end of the trial period with a redundancy payment unless the council regards the alternative employment as meeting the criteria for suitable alternative employment in which case a redundancy payment is not made.

#### 6.5 Applying for vacant posts

An employee may decide to apply for and accept alternative employment, which is not "suitable" e.g a materially different post. However, in order to encourage employees to consider such alternative posts, they will still receive a trial period of a minimum of 4 and normally a maximum of 12 weeks. If the trial period is successful they will be confirmed in the role. If it does not prove suitable at the end of the trial period, he/she will still be permitted to leave the council on the basis of redundancy from their previous role. The new job is taken on the terms and conditions of employment that the new post attracts and not necessarily the terms and conditions they received in their previous role.

### 7.0 Notice Period

The employee's contractual or statutory period of notice (whichever is the greater) will apply.

Where an employee is offered redeployment, contractual notice and the trial period for the new post will run concurrently. The trial period will be a minimum of 4 weeks and a maximum of 12 weeks to assess the suitability of the re-deployee in the new role.

Should the redeployment be deemed unsuccessful, the employee will be entitled to redundancy benefits according to age and length of service.

### 8.0 Support During Notice Period

Employees under notice of redundancy will be given reasonable time off to seek alternative employment.

The council offers outplacement courses to all employees under notice of redundancy. The Employee Assistance programme is also available to help

employees cope with the emotional stress often felt by employees at this difficult time.

## **9.0 Protection of Earnings for Redeployed Employees in cases of redundancy**

9.1 Where an employee is redeployed to a lower graded post as a consequence of redundancy their salary will be protected for 12 calendar months at the fixed salary received immediately prior to redeployment. The national pay award will be applied to the spinal column point they were appointed to in their new role and not to their protected salary. No incremental progression will be made in relation to the grade of their former post. Protection would normally only apply where the new role was within a maximum of 2 grades of the substantive grade of the post holder's existing post.

9.2 The Council should not normally offer protection of earnings to an employee who wants a permanent transfer to a post of lower remuneration but is not facing potential compulsory redundancy. Where any employee who is potentially redundant has failed to accept an offer of redeployment to a post which would have increased or maintained his/her existing earnings, protection will not be available.

When discussing protection arrangements with the employee, it should be made clear that the protection is intended to be a transitional arrangement only. A clear date for review of the protection, including the date at which the protection will cease, will be sent and confirmed in writing to the employee.

9.3 Where appropriate a certificate of material change will be sent to SERCO to protect pension benefits.

9.4 Where the Head of Service in consultation with Human Resources considers that a protected employee has unreasonably failed to accept either additional responsibilities or a transfer to another post which would have reduced the employee's protection, the protection will normally cease.

9.5 The formal offer of redeployment should specify the date or circumstances where protection will cease. (e.g. if an employee has completed 12 months in the new role or is moved to a higher graded post).

## **10.0 Redundancy Pay**

10.1 Where an employee is made redundant by the Council they will be entitled to:

- a) a statutory redundancy payment based on an actual week's pay and potentially,
- b) a discretionary payment which combined with the statutory redundancy payment would not exceed a maximum of 66 weeks' pay

The total enhanced redundancy payment is arrived at by applying a 2.2 multiplier to the number of weeks' pay an employee is entitled to under the Statutory Redundancy Ready Reckoner. The discretionary payment represents the difference between the total enhanced redundancy payment and the statutory redundancy payment.

A discretionary payment will only be made if no claims have been made in the 3 month period following dismissal for redundancy to an Employment Tribunal or court in respect of the dismissal. The discretionary payment will only be made after this has been ascertained.

10.2 Employees may convert the discretionary payment into additional service in the pension scheme if they wish (subject to submitting this request to Hertfordshire County Council Pensions Department prior to leaving the authority).

10.3 A week's pay

A week's pay is based on the contractual rate of pay immediately before the last day of the period of notice. When the contractual pay has varied the rate of pay will be averaged over the 12 weeks prior to the calculation date. Redundancy payments of up to £30,000 are tax free.

10.4 Service counting towards the calculation of redundancy payments

All service with bodies listed under the Redundancy Modification order counts as continuous local government service. Dates of continuous service will be checked with employees prior to calculating redundancy pay.

10.5 In what circumstances would employees not receive redundancy payments?

Employees would lose their entitlement to a redundancy payment where:

- He/she was dismissed for an act of gross misconduct
- The employee unreasonably refuses an offer(s) of suitable alternative employment.

Entitlement to a statutory redundancy payment is protected for employees who resign during redundancy notice by the Employment Rights Act 1996 but is limited to resignations occurring during the period of obligatory notice (i.e the statutory notice period or the contractual notice period whichever is the greater) . If the manager is in agreement, the redundancy termination date can be brought forward and the employee will still be entitled to their statutory redundancy payment. The Discretionary Payment arrangements would be in accordance with the provisions in paragraph 10.

Under legislation the redundancy payment must be reclaimed by the local authority which made the employee redundant if he/she takes a job with another local authority without leaving a gap of 4 weeks and one day

### **Early Retirement**

Employees who are eligible members of the Local Government Pension Scheme and are made redundant from the Council (or are accepted as volunteers for redundancy) are entitled to early payment of pension on the grounds of redundancy from the age of 50 (under the Local Government Pension Scheme which terminates on 31 March 2008); and from the age of 55 under the revised Local Government Pension Scheme, which commences on 1 April 2008. The exception to this is employees in the protected category under the pension regulations who can continue to receive their pension at age 50 on redundancy until 31 March 2010.

Under the Discretionary Compensation Regulations (2006) added years can no longer be given to employees retiring early on the grounds of redundancy. Instead employees of any age who are made redundant (or who are accepted as volunteers for redundancy) are eligible for the discretionary compensation payment (subject to complying with the conditions set out in paragraph 10.1).

## **12.0 Review**

This policy will be kept under review and amended in line with relevant legislation.