

## **Redundancy and Early Retirement Policy**

### **Manager's Resource Centre (MRC)**

The Local Government Pension Scheme (LGPS) changed from 1 April 2014 and pension benefits accrued after 31 March 2014 are now accrued on a career average basis rather than a final salary basis. As a result, the Council is currently in the process of developing its policy in respect of the various employer discretions now available to it under the Scheme in respect of pensions and the impact on redundancy payments for employees over age 55. Any amendments to related policy and associated guidance will be updated accordingly in due course.

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#### **1. Definition**

**1.1** A “redundancy” occurs where the County Council needs to reduce its workforce, for example where an establishment is closing down, or because fewer employees are needed for work of a particular kind. Normally the job will have disappeared.

**1.2** Non- school based employees affected by redundancy, will be considered under the provisions of Redeployment Policy.

**1.3** Agreed process for selection for redundancy of employees on teachers' terms and conditions and support staff based in schools is separate and any changes will be discussed through the School and Soulbury JCNP. Consultation with trade unions on any proposed redundancies will be in accordance with the specific procedure and guidance covering these employees which is in place at the time.

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#### **2. Redundancy situations**

Compulsory redundancy will only be instigated when all other reasonable available means of managing business needs have been considered and exhausted.

**2.2** Details of proposed large-scale redundancies including the full financial implications will be subject to departmental or corporate Committee Reports as appropriate to the service(s) concerned.

**2.3** Corporate Directors should identify and quantify possible redundancies and make every effort to identify posts and therefore individuals who are at risk of redundancy.

**2.4** The County Council will endeavour to ensure that all reasonable means are utilised to effectively manage employee redundancies arising out of redundancy situations.

**2.5** To reduce the possibility of compulsory redundancy, the following measures may be considered where appropriate:

- the possibility of releasing a “not at risk” employee to avoid an “at risk” employee being made compulsorily redundant (this is known as “substitution” or “bumping”), dependent upon available posts, transferability of skills experience, timescale and budget
- voluntary reduction in hours or “job sharing” may be appropriate where a redundancy situation could be avoided by a number of employees reducing their hours
- voluntary redeployment: dependent upon available posts, transferability of skills experience, timescale and budget
- voluntary redundancy/early retirement: seeking expressions of interest from employees who are willing to volunteer for redundancy (see 2.6 below).

**2.6** Corporate Directors have delegated authority to agree individual cases of voluntary redundancy, with or without early retirement, taking account of the financial

implications.

**2.7** There is no guarantee that every request for voluntary redundancy will be agreed and employees expressing an interest are not bound to accept the severance package offered, neither will they be able to appeal a refusal of their application.

**2.8** The basic principles as regards voluntary redundancy are:

- there is a need to reduce employee numbers in the volunteers' service area
- releasing the volunteer will allow another employee at risk to secure continued employment
- the remaining employees have the skills, qualifications and experience to fill the remaining posts and ensure continued excellent service delivery

**2.9** In the event that there are more volunteers than reductions required, selection will be made using a skills audit to ensure service delivery can be maintained and account will be taken of the cost to the Council of agreeing the redundancy in each case.

**2.10** Individuals taking early retirement should be encouraged to attend a pre-retirement course, organised through the County Council, details are available on My Learning My Career.

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### **3. Consultation**

**3.1** There are statutory requirements in relation to consultation which the Council are required by law to comply with where it is proposed to dismiss 20 or more employees (Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992), however, it is normal County Council policy to also apply the 30 day consultation period in circumstances involving less than 20 people wherever possible.

**3.2** The purpose of consultation is to provide as early an opportunity as practicable for all concerned to share the problems and explore options. The County Council will keep the trade unions informed as fully as possible.

**3.3** Consultation will begin:

- at least 30 days prior to the first notice of dismissal being issued when the County Council proposes to dismiss as redundant up to 100 employees at any one establishment in a 30-day period
- at least 45 days prior to the first notice of dismissal being issued when the County Council proposes to dismiss as redundant 100 or more employees at any one establishment in a 45-day period.

**3.4** In general, consultation should begin as soon as the possibility of redundancy arises to agree a protocol in relation to the information on which employees and trade union representatives will be consulted and a commitment to consider alternative proposals.

**3.5** The consultation process should precede any public announcement of specific redundancies.

**3.6** The statutory rules require the authority to consult on the following:

- the reason for the redundancies
- the number of and type of employees affected as against the overall number of employees of that type
- the method of selecting for redundancy
- the method of carrying out the dismissals and the time period after which the

dismissals will happen

- the method of calculating the redundancy payment.

**3.7** No notices of dismissal will be issued until consultation is completed.

Consultation will be through the trade unions or other employee representatives and will be undertaken at the earliest opportunity to also seek ways to mitigate and avoid redundancies wherever possible.

**3.8** The only possible exception to this may be where applications for voluntary redundancy have been approved, the employee has accepted the severance package on offer and the authority can issue formal notice of dismissal and the employees trade union or if a non-union member their representatives agrees to their early release prior to completion of the consultation.

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#### **4. Selection for redundancy**

**4.1** Posts at risk will be identified before any selection of individuals for redundancy has been carried out.

**4.2** Individual employees at risk will be identified following an enabling or redundancy selection process designed to determine which of the employees working in a prospective redundancy situation are at risk of redundancy and from what date.

**4.3** There are occasions when the employees at risk are identified automatically by the very nature of the duties undertaken and the area of redundancy.

**4.4** Once the employee has been informed that they have been identified, they should be invited to a formal, individual meeting with the manager who is responsible for making the final decision in relation to redundancy (or other designated officer). The employee is entitled to be represented by their trade union representative, or an official employed by the trade union, or a fellow worker at these meetings. Formal notice of dismissal may be issued following this meeting.

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## **5. Appeals**

**5.1** Statutory dismissal and redundancy procedures are revoked under the Employment Act 2008, including redundancy situations.

**5.2** Employees selected for redundancy will have a right of appeal against dismissal heard by an appeals panel chaired by an independent Senior Manager and another manager not previously involved, advised by an HR Business Partner.

**5.3** The process for the appeal will be in accordance with the Appeal Hearing Procedure, except that management reserve the right to present cases collectively where the business case is the same.

**5.4** An appeal should be lodged with the departmental Corporate Director within 10 working days of receipt of such confirmation of dismissal by reason of redundancy.

**5.5** Any appeal in relation to compulsory redundancy is limited to the application of the redundancy process on the grounds that the selection for redundancy was unfair. The appeal process cannot be used to complain about the fact of the business decision to reduce or cease work in a particular area.

**5.6** There will be no right of appeal in respect of non-selection for voluntary redundancy or refusal to agree an application for voluntary redundancy.

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## **6. Training and retraining**

**6.1** The Employment Rights Act 1996 gives employees with 1 year or more continuous employment who are to be made redundant a right to reasonable time off work with pay to arrange training or to look for new employment.

**6.2** The granting of leave to enable redundant employees to seek alternative employment is a matter for Corporate Director's discretion (or other designated officer). As a general guide, it may be considered appropriate to allow up to 3 days for this purpose, but it should be borne in mind that the entitlement is an individual one and each case should be considered on its own merits.

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## **7. The statutory redundancy payment**

**7.1** The Government has exempted the determination of statutory redundancy payments from the provisions of the Equality Act 2010 which apply to the calculation of any additional, discretionary payments.

**7.2** Any employee with over 2 years' service who is made redundant will be entitled, in accordance with the statutory formula, to a minimum statutory redundancy payment in accordance with the Equality Act 2010, which is based upon their actual pay.

**7.3** The amount of statutory redundancy payment depends on an employee's age, length of service and the amount of their normal contractual weeks' pay:

- 0.5 week's pay for each full year of service where age during the year is less than 22
- 1 week's pay for each full year of service where age during the year is 22 or above but less than 41
- 1.5 week's pay for each full year of service where age during the year is over 41.

**7.4** Only continuous service with organisations covered by the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999 should be treated as reckonable when calculating an individuals' entitlement to a redundancy payment. Contracts must be successive and any break in continuous

service, as defined above, will not count as reckonable.

**7.5** The maximum service which can be taken into account under statutory provisions is 20 years and the maximum payment allowable, 30 weeks' pay.

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## **8. Additional discretionary redundancy pay**

**8.1** Local authorities are able to grant, at their discretion, benefits in excess of the statutory provisions to employees who cease their employment prematurely on the grounds of redundancy.

**8.2** In order to comply with the Equality Act 2010, local authorities are required to develop and publish their own policy on the award of any discretionary payments for loss of employment.

**8.3** The Council's current redundancy provisions are at Nottinghamshire County Council's redundancy calculator..

**8.4** Under LGPS regulations, any redundancy payment is subject to the employee not being in receipt of any offer of alternative employment, outside of the county council's redeployment processes, prior to the last day of service and within 4 weeks of termination, regardless of the start date of the new employment.

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## **9. Efficiency termination**

**9.1** The provisions for the Council to affect a termination 'in the interests of the efficiency of the service' will be used in exceptional cases only and will be subject to the agreement of the relevant Corporate Director.

**9.2** The distinction between efficiency and redundancy is that in the latter the



resultant vacancy is not filled.

**9.3** The circumstances in which employment may be terminated on efficiency grounds are not simply reorganisation/restructuring (such cases are more often on redundancy grounds) but are more generally related to health/ability/age considerations.

**9.4** Appropriate cases are those involving an employee over 55 years of age and demanding an element of compassion e.g. the application of the provisions may be justified in a case of intermittent ill-health where a person does not qualify for immediate payment of pension benefits on grounds of permanent incapacity; or where an employee with long service becomes unable to adapt to modern methods or to a change of post and the County Council cannot accommodate them elsewhere.

**9.5** There will be no award of added years in any circumstances.

**9.6** It is important to stress that a decision on each case must be reached 'on the grounds of the efficient discharge of the County Council's functions' and not merely on the basis of financial savings for the County Council, this being necessary in order to comply with the appropriate pension regulations.

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## **10. Retirement on health grounds (permanent incapacity)**

See Section H8 - Retirement on Ill Health Grounds, Personnel Handbook.

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## **11. Pension/gratuity payments**

When dealing with cases of redundancy, it is necessary to bear in mind the following considerations relating to pension/gratuity payments:

### **11.1 Pension position of employees under 55 years of age at termination**

With less than three months membership in the scheme - contributions may be refunded or accrued rights transferred to the Pension Scheme of a new employer.

With three months or more membership in the scheme - accrued rights may be either transferred to a new scheme or left in the Pension Fund as deferred benefits payable at pension age. Alternatively, an election to receive early payment may be made at or after age 55 (with employer's consent if under 60).

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Agreed by Personnel Committee on 23 November 2011

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