

REDUNDANCY POLICY UPDATE

Presented by the Head of Human Resources

SUMMARY

The purpose of this report is to seek Member approval for the revised Redundancy Policy which has been updated to take account of recent legislative changes.

The draft Redundancy Policy is attached at Appendix A to this report.

RECOMMENDATION

Members Approve: (1) the Redundancy Policy attached at Appendix A of this report.

BACKGROUND

- 1 The Authority has a register of policies that ensure the organisation works efficiently and consistently towards delivering its Business Strategy. These policies are reviewed to ensure they are relevant and up to date with legislation and best practice.
- 2 There are a number of Human Resources policies and these are currently being updated and will be presented to Members for consideration and approval as and when they are reviewed.
- 3 It should be noted that where possible the Authority implements legislative changes from the date they are introduced; and there may be a time lag between this and the relevant policies being updated.

REDUNDANCY POLICY CHANGES

- 4 All changes and updates to the Redundancy Policy are shown as tracked changes on Appendix A to this report.
- 5 The Redundancy Policy sets out the Authority's approach to dealing with potential redundancies and where there is a need to make changes to the organisational structure which puts employees at risk of redundancy, the Authority is committed to manage such changes in a fair, consistent and transparent manner while communicating fully with affected employees.

- 6 On 12 February 2021 HM Treasury published a Treasury Direction disapplying parts of the Restriction of Public Sector Exit Payments Regulations 2020 (the Exit Cap Regulations) which implemented the £95,000 cap on public sector exit payments, with immediate effect.
- 7 On 25 February 2021 the Restriction of Public Sector Exit Payments (Revocation) Regulations 2021 (the Revocation Regulations), were then placed before Parliament which came into force on 19 March 2021 and formally revoke the Exit Cap Regulations. The Revocation Regulations also contain a legal obligation for employers to make payments to employees (or to other persons including public sector pension schemes in relation to those employees) who left during the period between the original regulations coming into force (4 November 2020) and the date of the Revocation Regulations coming into force. The Authority did not make any redundancies between 4 November 2020 and 19 March 2021.
- 8 Due to the legislative changes detailed above, section 15 of the Redundancy Policy has been removed.

ENVIRONMENTAL IMPLICATIONS

- 9 There are no environmental implications arising directly from the recommendations in this report.

FINANCIAL IMPLICATIONS

- 10 There are no financial implications arising directly from the recommendations in this report.

HUMAN RESOURCE IMPLICATIONS

- 11 The revised Redundancy Policy will be communicated to all staff and the Authority will ensure that managers are adequately trained to implement the procedures in accordance with this policy.

LEGAL IMPLICATIONS

- 12 It is important for Members to note that under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, the effective date of any revision to the Redundancy Policy will be one calendar month after the date of approval of the revised policy, at which point the revised policy will be applied to any organisational change proposal for which employee consultation has not already commenced.

RISK MANAGEMENT IMPLICATIONS

- 13 There are no risk management implications arising directly from the recommendations in this report.

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APPENDIX ATTACHED

Appendix A Redundancy Policy



Redundancy Policy

~~November 2020~~ April 2021

Reference: [Version 43]



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i Document Information

Title: Redundancy Policy

Status: Draft

Current Version: v43.00

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Consultation:	SMT, Policy and Procedure Review Group
Approved	Approved by: Authority Approval Date: April January 2021 Review Frequency: Every 5 Years Next Review: January April 2026

Version History		
Version	Date	Description
3.0	November 2020	Updated statutory consultation periods
3.0	November 2020	Updated officer names and job titles
3.0	November 2020	Updated voluntary redundancy details
3.0	November 2020	Brought in line with legislation
3.0	November 2020	Added in remote consultations
3.0	November 2020	Updated when policy applies and when doesn't
3.0	November 2020	Setting out the responsibilities and accountability relating to this policy
<u>4.0</u>	<u>April 2021</u>	<u>Removed section 15 of this policy as the Restriction of Public Sector Exit Payments Regulations 2020 (the Exit Cap Regulations) were revoked in February 2021.</u>

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1. Context

- 1.1 The Authority recognises its duty to deliver its services in the most cost effective way possible and the need to remain responsive and flexible in the way service delivery is organised.
- 1.2 This policy sets out our approach to dealing with potential redundancies. It is non-contractual and does not form part of your terms and conditions of employment and the Authority may amend, vary or withdraw the policy at any time, in its absolute discretion. The policy will be applied fairly and equally to all employees.
- 1.3 The Executive Committee must review any changes in staffing establishments where there is an additional budgetary requirement and/or redundancy implication.
- 1.4 This policy only applies where an organisational change proposal deletes (wholly or in part) any established post and which may put one or more employees at risk of redundancy.
- 1.5 This policy does not apply where any organisational change proposal does not put any employee at risk of redundancy, including, for example where:
- it is proposed to create additional posts
 - it is proposed to delete vacant posts
 - it is proposed to change the reporting line of existing posts
 - it is proposed to transfer employees under the Transfer of Undertakings (Protection of Employment) Regulations
- 1.6 The policy covers all permanent and fixed term employees.
- 1.7 The policy will be reviewed from time to time to ensure that it reflects our legal obligations and business needs.

Note: Agency Workers are not employees of the Authority and therefore are not included within the scope of this policy.

2. Policy Aims

- 2.1 Where there is a need to make changes to the organisational structure which puts one or more employees at risk of redundancy, the Authority is committed to manage such changes in a fair, consistent and transparent manner while communicating fully with affected employees.
- 2.2 The Authority will make every effort to minimise the number of compulsory redundancies and wherever possible will seek to achieve reductions in employee numbers through natural wastage, deletion of vacant posts, reduction of the use of agency workers, self-employed

contractors and consultants, non-renewal of fixed term contracts, recruitment freezes, voluntary redundancy, early and flexible retirement and redeployment.

3. Responsibilities

3.1 Managers are expected to:

- Lead the change from start to finish of the organisational change process
- Obtain HR advice and support at an early stage to identify the implications of the proposed change and to ensure appropriate planning
- Identify Equality and Diversity implications of the proposed change
- Ensure genuine and effective consultation and communication takes place with employees and trade unions throughout the organisational change process including approaching employee consultation and considering all responses and feedback with an open mind
- Keep written records of all discussions and communications with employees and trade unions
- Support employees throughout the organisational change process

3.2 Employees are expected to:

- Be flexible and open-minded in considering proposals for change
- Participate in the consultation process by contributing their own views in a reasonable and open manner
- Cooperate in the assimilation, ring-fence and redeployment processes by considering any suitable alternative employment opportunities and playing an active part in seeking alternative job roles
- Continue to carry out their duties and responsibilities in a professional manner during the organisational change process

3.3 The Senior Management Team are accountable for ensuring that this policy is implemented across the Authority, ensuring it is communicated and understood, translated into practice and enforcing its content

3.4 The Human Resources Team are responsible for implementing this policy across the Authority

4. Staffing Reduction Measures

4.1 Subject to the particular requirements of the service and in discussion with the Trade Unions, the order of implementation of downsizing measures will normally be as follows:

- If a redundancy situation is likely to occur for whatever reason then the Chief Executive should 'freeze' all occurring vacant posts that could provide opportunities for redeployment of other suitable and potential redundant employees considering all vacancies on their individual requirements i.e. skills, operational, health and safety requirements etc.
- Posts considered to be of a similar level in any proposed new structure will be 'ring fenced' and open to application by only those who are considered to be 'at risk' in the first instance.
- Existing employees who are "at risk" will be encouraged to apply for current suitable vacancies within the Authority.
- Restriction of external recruitment as follows:

If it is agreed between the Chief Executive and the Deputy Chief Executive/Corporate Director that for business reasons an appointment should be subject to market testing, external advertising of such posts will be used. However, this does not exclude any applications by the Authority's employees. The objective is to secure the best candidate for the post.

5. Voluntary Redundancy

- 5.1 To reduce the need for compulsory redundancies, the Authority may seek volunteers for redundancy.
- 5.2 On each occasion the terms that will apply will be declared, i.e. reasons for, time limits for application and acceptance etc.
- 5.3 Whether or not enhanced payments will be offered in relation to voluntary redundancies will be a matter for the Executive Committee to approve and will depend on the circumstances of each occasion.
- 5.4 Applications for voluntary redundancy will be assessed against a set of objective criteria and any other relevant factors, in each case, decided at the Authority's discretion.
- 5.5 There is no obligation on the Authority to accept any application for voluntary redundancy and it may do so at its absolute discretion

6. Compulsory Redundancy

- 6.1 Compulsory redundancy shall only be applied if the Authority (acting through the Executive Committee) is satisfied that subject to the particular requirements of the service and in discussion with the Trade

Unions and staff representatives, the order of implementation of downsizing measures has been systematically applied.

- 6.2 Full and timely notification to, and consultation with Trade Unions and staff representatives, are of particular importance in the context of compulsory redundancy.
- 6.3 Following full consultation, the Authority will adopt fair and equitable selection criteria for redundancy. The criteria used to select those employees who will be placed at risk of redundancy, will be objective, transparent and fair and based on the skills and specialist experience/knowledge required to meet our existing and anticipated business needs.

7. Consultation

- 7.1 When the Authority has to take measures which may affect job security it will undertake to keep the Trade Union and staff representatives as fully informed as possible and will consult on the procedure that will be followed and the criteria to be applied.
- 7.2 There is no legal obligation on an Employer to consult staff representatives where less than 20 redundancies are proposed within a 90 day period. However, this does not absolve employers from acting reasonably when handling redundancies by, in particular, informing and consulting the employees individually as appropriate, regardless of the number of dismissals. The Authority endorses this good practice.
- 7.3 Where there will be between 20 and 99 redundancies within a 90 day period, consultation must start at least 30 days before the first of the dismissals take effect.
- 7.4 Where there will be 100 or more redundancies within a 90 day period, consultation must start at least 45 days before the first dismissals take effect.
- 7.5 Where it is not possible to hold face-to-face meetings, we endeavour to conduct the consultation process remotely in consultation and agreement with Trade Union and staff representatives and affected employees.
- 7.6 Where selection for redundancy is confirmed, employees selected for redundancy will be given notice of termination of employment in accordance with their contracts of employment and written confirmation of the payments that they will receive. Subject to agreement, the employee consultation period may conclude earlier than at the end of the statutory 30/45 day period where employee consultation can be shown to have genuinely been completed before that date. In such circumstances, individual notices of redundancy could be issued before the end of the statutory 30/45 day employee consultation period.

7.7 Employee consultation must cover:

- Reasons for staffing reduction proposals.
- The number and description of employees it is proposed to dismiss as redundant.
- The total number of employees of any such description employed at the establishment in question.
- Selection criteria and how they will be applied.
- How the redundancies are to be carried out as per agreed procedure and the period over which the redundancies are to take effect.
- Details of any proposed assimilation and ring-fencing groups
- The method of calculating the amount of redundancy payments to be made to those who are dismissed by reason of redundancy.
- The effect on earnings where redeployment is secured by employees who have had their posts deleted.
- Where work is accepted under redeployment in a different location, the arrangements for travel, removal and related expenses.
- Whether redundant employee may leave during the notice period, or postpone the date of expiry of notice without losing any entitlement to a statutory redundancy payment.
- The length of any trial period in a new job.
- Details of the next steps after closure of employee consultation, including key dates

8. Selection Criteria for Redundancy

The criteria under redundancy shall be:-

- A) Objective, fair and consistent with the Authority's established Appeals Procedure.
- B) Selection on a basis agreed with the employees and Union but having regard to the need to retain key skills and/or specialist knowledge and experience within the Authority.
- C) The standard of work performance or aptitude for work based on agreed appraisal system.
- D) Attendance and disciplinary records will only be taken into consideration in cases where items A and B above do not enable a clear decision.

For the avoidance of doubt, the above is not an exhaustive list and the Authority retains the discretion to amend the selection criteria from time to time.

9. Appeals

- 9.1 You have the right to appeal our decision to select you for dismissal on the grounds of redundancy.
- 9.3 The Authority's Appeals Procedure will be followed.
- 9.4 For 3rd tier officers and above dismissal appeals (including redundancy) will be heard by a Member Appeals Committee as detailed in The Authority's Standing Orders.

10. Assisting Redundant Employees

- 10.1 The Authority will offer employees being made compulsorily redundant help to obtain employment outside the Authority.
- 10.2 Outplacement support will be available to all employees who are in receipt of redundancy notice. This service will be provided by external consultants. Full details will be provided at the time.
- 10.3 Any employee "at risk" of redundancy shall be entitled to an individual interview with Human Resources / their Head of Service to determine alternative possibilities for employment within the Authority.
- 10.4 Employees who have been declared redundant, will be given adequate time off with pay to attend interviews for, and to seek alternative employment, and where appropriate, training.

11. Redeployment

- 11.1 Wherever possible the Authority will endeavour to redeploy employees to suitable posts within the Authority. The person specification will be used to assess whether individuals meet the essential criteria. The Authority will provide reasonable training opportunities to assist 'at risk' employees to meet such criteria.
- 11.2 Where a suitable re-deployment opportunity has been identified, if the employee's skills meet 75% of the essential criteria of the vacancy, then they must undertake a trial period in the new position.
- 11.3 Where redeployment occurs, salary will be protected (with the benefit of future cost of living pay awards only) if the new job is within one full grade of the old job for a maximum of two years.
- 11.4 Upon redeployment car allowances will not be protected. Protection of other non-salary conditions of service is not normally granted.

- 11.5 Employees who have to undertake additional daily travel in order to take up an offer of suitable alternative employment with the Authority, will be entitled to claim the difference in mileage between their home and current base of work and their new mileage from home to new base of work. This will be payable at the casual user's rate, for a period of six months.
- 11.6 Where a statutory trial period applies it shall extend to 3 months for the purposes of retraining. A similar trial period shall apply to further redeployments.
- 11.7 The provisions covering status, location, environment, hours of work, trial periods etc. shall be in line with advice issued by ACAS.

12. Redundancy Payments

- 12.1 Redundancy payments are calculated on the same basis as statutory redundancy pay with the exception that actual weeks' pay is used (i.e. the statutory maximum week's pay is not applied). The Redundancy Pay Ready Reckoner is available to obtain from HR.
- 12.2 For the purposes of calculating the redundancy payment payable to a Local Government employee, the Redundancy Payments (Continuity of Employment in Local Government, etc) Modification Order 1999 provides that employing authorities must count continuous service as including all continuous local government service and service with other relevant public authority employers.

13. Additional Payments

- 13.1 The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 provide local government employers with powers to consider making a one-off lump-sum payment (that must not exceed 104 weeks' pay) to an employee whose employment is terminated in the interests of the efficient exercise of the employing authority's functions.
- 13.2 Employing authorities have the power to base a week's pay for those made redundant on an amount up to the actual weekly pay of the redundant employee.
- 13.3 Employing authorities also have discretion to increase the number of weeks' pay that can be given for each year of service up to a maximum and in accordance with statutory provisions.

14. Local Government Pension Scheme

- 14.1 Redundant employees who are members of the Local Government Pension Scheme (LGPS) and who are aged 55 or over, and meet the 2 year vesting period, will be entitled to immediate payment of pension benefits, and all or part of the pension will be unreduced. The Authority will provide to affected employees (via the LGPS) their individual pension estimates. It is not however permissible for the Authority to provide pension advice.
- 14.2 Enhancements to an employee's pension, i.e. additional pension contributions (APC's), is discretionary and subject to Member approval.
- 14.3 For employees over 55 years of age the policy on discretionary enhancements of pensions in cases of redundancy is as follows:
- a) The Authority will only make use of its discretion to award additional pension contributions where the early retirement results in financial and/or operational advantage. In exercising its discretion, the Authority will have regard to the employee's overall contribution to the Authority, including length of service, and the cost of awarding additional pension;
 - b) Additional pension contributions will only be considered for individuals who have a minimum of five years service with the Authority and are members of the Local Government Pension Scheme (LGPS). The amount of additional pension contributions awarded will be based on whichever is the lower of the employee's length of service with the Authority and their length of membership in the LGPS whilst employed by the Authority.
 - c) Each case will be considered individually by the Executive Committee.

~~15. Public Sector Exit Payments Cap~~

- ~~15.1 The Restriction of Public Sector Exit Payments Regulations 2020 (Regulations), which are in force from 4 November 2020, implement a cap of £95,000 (gross) on exit payments made in the public sector. For the avoidance of doubt, the cap will apply to all exit payments (including pension enhancements under the LGPS) made on or after 4 November 2020, regardless of any prior negotiations or contractual agreements between the Authority and employees.~~
- ~~15.2 The value of early payment of an unreduced pension is a payment/enhancement to which the cap applies.~~
- ~~15.3 Exit payments are payments made to public sector employees on termination of employment or office holders on leaving office.~~

- ~~15.4 Under the Regulations, various payments count towards the exit payment cap including redundancy payments. The total of all exit payments may not exceed £95,000 (gross).~~
- ~~15.5 The Regulations provide that where employees are entitled to a statutory redundancy payment, in addition to other exit payments, the amount of the statutory redundancy payment or its equivalent may not be reduced. Therefore, if the total of the exit payments exceeds the cap, the other exit payments must be reduced, if necessary to zero, so that the total sum does not exceed the cap amount.~~
- ~~15.6 If the exit payments cap will affect a redundant employee, HR will discuss this with the individual employee during individual consultation.~~
- ~~15.7 Where two or more public sector exits occur in respect of the same individual within a period of 28 consecutive days, the total amount of the exit payments made to that individual cannot exceed the £95,000 cap. Employees will be obliged to disclose their departure and eligibility to an exit payment to any other interested or affected public bodies.~~
- ~~15.8 Any payments made in connection with this policy will be capped at the exit payments cap and payments will remain subject to the provisions of the Regulations as amended from time to time. In the event of a conflict, the terms of the Regulations shall take precedence.~~

156. Legal Considerations

The legislation that influences this policy is:

- Employment Rights Act 1996
- Equality Act 2010
- Fixed-term Employees (Prevention of Less Favourable) Treatment Regulations 2002
- Redundancy Payments (Continuity of Employment in Local Government, etc) Modification Order 1999
- Small Business, Enterprise and Employment Act 2015
- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006
- The Local Government Pension Scheme Regulations 2013
- ~~The Restriction of Public Sector Exit Payments Regulations 2020~~
- Trade Union and Labour Relations (Consolidation) Act 1992.

167. Relevant Policy & Procedures

This policy operates in conjunction with the following policies, procedures and statements:

- Equal Opportunities Policy
- Grievance and Problem Solving Policy
- Grievance and Problem Solving Procedure
- Appeals Procedure

178. Policy Implementation

This policy will be available on the Authority's intranet for all employees to access. Once the policy has been approved by Authority, HR and line managers will be responsible for ensuring on behalf of the Authority's Senior Management Team that this is carried out.

189. Monitoring & Evaluation

The policy will be monitored and evaluated on effectiveness periodically.

1920. Review

19.1 This policy will be reviewed in light of any new legislation/regulation or every five years, whichever is the earlier.

19.2 Under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, the effective date of any revision to this policy will be one calendar month after the date of approval of the revised policy, at which point the revised policy will be applied to any organisational change proposal for which employee consultation has not already commenced.

201. Glossary of Terms

Term	Definition
ACAS	Advisory, Conciliation and Arbitration Service
HR	Human Resources
TUPE	Transfer of Undertakings (Protection of Employment) Regulations