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## Redundancy & Redeployment Procedure

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**September 2023**

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Next scheduled review: September 2025  
Approving authority: Breckland Council  
Responsibility for Policy: Head of Paid Service

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This document applies to all Council employees

*This document may not be applicable to employees who transferred into BDC under TUPE legislation and remain on the terms and conditions of their previous organisation.*

## **Procedure Aim**

The aim of this policy is to ensure there is a structured process for dealing with employment matters and supporting employees and Managers through periods of change where the deletion of posts and staff redundancies may be involved.

### **Important Note:**

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

Redundancy in respect to a Chief or Deputy Chief Officer, Head of Paid Services, S151 and Monitoring Officer must be approved by the Appointments and Disciplinary Committee.

Employees have a right to be accompanied by a Trade Union representative or a work colleague during one to one meetings, Dismissal meeting and Dismissal Appeal meeting.

### **1.a Establish the Business case**

The Council may only put employees at risk of redundancy where they have established clear business reasons for doing so.

This business case may emerge from internal planning which decides the size and most efficient use of staffing required meeting objectives or financial constraints. Or it may be a response to external factors, including, for example, the loss or reduction of external funding. The business case must be a written rationale for the changes proposed.

### **1b. Seek advice and specialist support from the HR Team**

Where the business case demonstrates that it may be necessary to terminate contracts on grounds of redundancy, the Service Manager concerned must inform HR.

- HR will arrange for support to be provided to the department
- HR will also ensure that arrangements are made for staff union representatives to be informed and consulted at an appropriate time.
- HR will take an active role in supporting the service in its management of the subsequent stages of the redundancy/redeployment procedure, including the steps necessary for the consideration of compulsory redundancy, should that prove unavoidable.

### **1c. Identify the potential redundancy selection pool**

The business case must identify the pool from which any eventual redundancies will be sought. If, later in the process, compulsory redundancies prove to be unavoidable, the Council will have to demonstrate that the pool from which those dismissed are selected had been properly and fairly identified. Selection from too narrow a pool may itself render a dismissal unfair.

Judgement has to be objective.

The pool must reflect the specific circumstances of the case. For example:

- Where the intention is to cease a particular activity altogether, identifying the pool is relatively straightforward. It may be clear that all employees who carry out that activity are likely to be at risk of redundancy. This may produce a large pool or, where the post under threat is highly specialised and only one employee is qualified to fill it, there may reasonably be a pool of only one. Where the intention is to reduce an activity or to cease it, it may be appropriate to include not just the employees whose posts have been identified as being at risk, but also those in comparable posts.
- Where employees' jobs are readily interchangeable, it is likely to be necessary to include all those employees in the pool.
- Where employees on different types of contract are doing similar work, they may also need to be included in the pool.

## 2. Consultation with Employees and Unison

Consultation with affected employees and Union representatives will take place throughout the process to discuss the reasons for the proposed changes, selection criteria and options. Feedback and alternative suggestions will be sought through-out the consultation period. A consultation template including a timetable can be found in Appendix 1.

**Statutory** consultation periods are as follows:

Number of affected employees	Start time of consultation
Up to 19 redundancies	No statutory rules on how you should carry out consultation.
20 to 99 employees	Consultation must start no less than 30 days prior to the first dismissal taking effect.
100+ employees	Consultation must start no less than 45 days prior to the first dismissal taking effect.

Where the 20 employee trigger has been reached, the Redundancy Payments Service **must** be informed prior to consultation; failure to do so can incur an unlimited fine. If this applies please contact the HR Team.

The Council will endeavour to formally consult with trade unions and employees irrespective of numbers of employees and timescales.

## 3. Inform employees who are 'at risk'

Once the consultation period has come to an end, feedback considered and final approval has been given by the appropriate Committee, any employee who is at risk of dismissal on the grounds of redundancy must then be advised that their post is 'at risk' of being made redundant. Where ever possible this should be carried out by way of a one-to-one consultation meeting. The meeting should be face to face but can be held virtually if agreed by all parties.

### **Content of the One to One meeting**

- As much notice as possible should be given of the meeting.
- The employee should be given the opportunity to bring a union representative or colleague of their choice to the meeting.
- The employee should be informed of the reasons for the changes and for their inclusion in the at-risk pool.
- The employee should be advised of the options available or to be pursued to avoid compulsory redundancy, including redeployment or voluntary redundancy (if available) or to mitigate its effect.
- The employee should be asked to let the service know whether or not they wish to be considered for voluntary redundancy (if this is an option) and/or redeployment. It should be made clear that suitable posts might not be available and that the search is more likely to succeed where the employee is prepared to be flexible about their future role.
- HR should be present at the meeting to support both the Manager and employee.
- The employee should be advised in writing if they are 'at risk' of redundancy. HR will produce this letter following instruction from the service area.

Consultation should be undertaken with, and information sent to, all affected employees, including those temporarily absent or on sick or parental leave (including maternity leave).

Contact between the service and/or HR and the employees at risk should be maintained and recorded throughout the redundancy procedure.

### **3b. Informing Employees that they are a 'slot in'**

Where a post in any revised structure is fundamentally the same as the existing post and there is just **one** employee for the job, the manager can slot the employee (assimilate them to the new post), taking into account training and development needs, without the need for an interview.

For slotting to take place, the post has to be fundamentally the same. It is a matter of judgement as to whether the post is fundamentally the same taking account of the range, size and scope of the accountabilities, professional requirements and the context in which the post operates. This will usually be outlined during the consultation phase of any proposed changes.

## **4. Exploring Alternatives to compulsory redundancy**

The need for compulsory redundancy may be avoided if those at risk, or others, reach agreement to leave voluntarily. This can take the form of voluntary redundancy; early retirement; or 'bump'\* severance at the Council's discretion and financial ability.

*\*'Redundancy bumping' is where an employee whose job is not redundant, is dismissed to make way for an employee whose role has become redundant. Bumping can be a legitimate way of retaining valued staff while still reducing headcounts.*

### **Voluntary redundancy**

As part of a service review, applications **may** be invited for employees to apply for voluntary redundancy.

- Although the Council does not ordinarily seek volunteers as a means of avoiding compulsory redundancies, it must be clear that any application to leave voluntarily is the employee's choice.
- HR will advise on the terms available on a case-by-case basis.
- To accept an application, the service must be satisfied that it is appropriate for that particular employee to be released.
- If the number of employees wishing to leave does exceed the staff reduction required a selection process may be necessary in order to determine which voluntary redundancy applications should be accepted).

The decision as to whether or not to accept a voluntary redundancy application will depend on the Council's need to retain the types of knowledge and skills that are believed to be essential to meet future aims, the need to retain a balance of people with different skills, and affordability.

#### **4.b Redeployment**

Where an employee is at risk of redundancy the Council will seek to redeploy them wherever possible. Those 'at risk' will be given priority consideration for any other vacancies that they meet the minimum criteria for.

Employees under notice of redundancy will be allowed a reasonable amount of paid time off to look for another job or to arrange training/re-training. In addition the Council will endeavour to provide any other support to help the employee find other work outside the Council.

##### Suitable Alternative Employment

Where possible the organisation will try and identify suitable alternative roles within the organisation. If a suitable role is identified it will be discussed with the individual to agree if the role is suitable. If agreement is reached that it is suitable the role should be offered to the individual instead of redundancy.

The individual will not have to apply for the role, however if more than one employee is interested in the same role, it must be offered to any employee on maternity leave or shared parental leave first. For all employees a fair process, for example interviews, will be followed. The following are some of the factors that can be taken into account when assessing whether a job amounts to suitable alternative employment:

- How similar the work is to the current role
- The terms of the job being offered
- Status, hours and location
- the rate of pay and the value of any contractual benefits.

If suitable alternative work is identified and if the employee may be a suitable candidate, the employee should be notified. The employee will then be required to apply for the role in order to demonstrate that they are a suitable candidate for the role. An interview may also form part of the selection process so that individuals can demonstrate that they match the Council's behavioural competencies and technical requirements.

Redeployment constitutes a change to an individual's contractual terms of employment and cannot be implemented without his or her consent. But unreasonable failure to accept an offer of suitable alternative employment would put the individual at risk that he or she would not be entitled to a redundancy payment.

##### Trial Period

An offer of suitable alternative employment will be subject to a statutory 4 week trial period.

This can be extended (by agreement) if the employee needs training. The trial period allows the employee and the Council to assess if the employment is suitable as an alternative to redundancy. At the end of the trial period the Council will write to the team member to confirm the position.

## **Pay Protection**

If a suitable alternative position is secured pay protection may apply. Please refer to the Pay Protection Statement for full details.

## **5. Compulsory redundancy dismissal process**

If, it has not been possible to achieve the necessary staff reductions by voluntary means or through redeployment, the compulsory dismissal process must be followed. In all cases the process for dismissal on grounds of redundancy must include:

- a fair selection process to determine which employees are dismissed
- a proper notice period
- appropriate redundancy payment

At the end of this process, the formal notice of dismissal may only be issued after appropriate authorisation. Each dismissal notice must include provision for an appeal.

### **5a. Selection**

In cases where the number of staff to be dismissed is smaller than the number of staff in the potential redundancy pool, there must be a selection process to determine which employees will be dismissed. Selection will involve choosing between employees who carry out the same or similar duties. Departments must, therefore, give careful thought to the criteria that will allow a choice to be made and consideration must be given to the decision making framework.

These criteria should generally be objective and appropriate and applied fairly and transparently. What constitutes appropriate criteria will vary according to local circumstance and advice must be sought from HR at an early stage. Employees and the appropriate trade union(s) should be notified of the criteria and given the opportunity to comment, in order to ensure that any special circumstances that apply to employees at risk of redundancy are taken into account in the selection process.

Some commonly used selection criteria include:

- Skills or experience
- Standard of work performance or aptitude for work
- Attendance or disciplinary record
- Application, competency and behaviour based interview

It is essential that employees can be marked against the agreed criteria in a consistent and objective way.

The criteria, or the application of them, should not discriminate because of

- protected characteristics under the Equality Act 2010 (which include: disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation); or
- trade union membership or activities, or assertion of a statutory right; or

- unjustifiably singling out one type of worker against another, for example unjustifiably selecting a full-time worker over a part-timer or a permanent contract employee over someone on a fixed-term contract.

## **5b Notice Period**

Employees who are dismissed on grounds of redundancy are entitled to receive their contractual or statutory notice period, whichever is the longer. This notice period should be given in the notice of dismissal. Payment in lieu of notice may be available, on the advice of HR and Chief Officer.

## **5c Redundancy Pay**

The amount of redundancy payment is linked to an employee's age and their continuous service with the Council (or continuous local government service) In order to qualify for a redundancy payment an employee must have a minimum of 2 years continuous local government service. This applies to those on fixed-term as well as openended externally-funded or permanent contracts. Employees may, however, not be entitled to a redundancy payment if they:

- Have found, or been successfully redeployed, to another post within the Council;
  - Have been offered and refused suitable alternative work without good reason; or
  - Leave employment before the end of the notice period (by resigning) in order to take up alternative work outside the Council.
- . . If an employee is under notice of redundancy and then receives a job offer from another body listed on the Modification Order before the termination their employment and starts the new role within 4 weeks of the end of their old job, they are treated as not having been dismissed. For this reason, the employee will not be entitled to receive a redundancy payment at that time.*

- HR should be consulted on specific cases.

Whenever a redundancy payment is made, the employee must be given a written statement showing how the payment has been calculated. Employees who, on leaving Council employment, receive a redundancy payment should not be re-employed by the Council in any capacity for a period of at least four complete calendar weeks (a calendar week being judged to start on a Sunday) after the leaving date. The Council calculate redundancy pay by using the Actual Weeks' pay rather than the Statutory Capped weekly amount. This payment is processed via the Payroll in the usual way. Any payment made for notice pay or outstanding annual leave will be subject to National Insurance contributions and Tax.

## **6. Appeal**

An employee may appeal against the notice of dismissal on the grounds of redundancy within 7 calendar days of receiving the dismissal letter. Details of the appeal process are included in the notice of dismissal letter. In all cases, every effort will be made to hear appeals before the date on which the individual's employment is due to end. Employment will not be extended to hear the appeal. If it has not been possible to hear the appeal before the date of the dismissal, an employee whose appeal is successful will be reinstated with full continuity of service and no loss of pay or other employment benefits. The employee will be required to return any payment made in respect of any termination of employment.