

# **REDUNDANCY POLICY**

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### 1. Timescales

**Please note:** For the purpose of timescales, 'days' are classed as working days and are based on a fulltime week (Mon-Fri) and not the contracted days of an employee.

Action	Minimum timescale
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Circulate consultation document to trade unions prior to meeting	Minimum 1 week (or longer if possible)
General Consultation period with Employees	Minimum of 2 weeks Maximum of 4 weeks Period to be stipulated in consultation document
If less than 20 employees are to be dismissed, consultation must begin as soon as is practicable.	As soon as practical before first dismissal takes place
If 100 or more employees are to be dismissed over a period of 90 days or less, then the consultation must begin at least 90 days before the first dismissal takes effect.	90 days before first dismissal takes place
If less than a 100, but at least 20 employees are to be dismissed over 30 days or less, the group consultation must begin at least 4 weeks before the date of the first dismissal.	4 weeks before first dismissal takes place
Minimum period on Redeployment list	Equivalent to notice period
Notice Period	Minimum of 4 weeks Maximum of 12 weeks Dependant on service.
Week's pay	Average remuneration in the period 12 weeks preceding the date notice is given
Redundancy calculation	45 weeks' pay maximum Calculation based on age and length of service up to a maximum of 61 and 20 years' service
Employee notified of the outcome of the final consultation meeting	Within 5 days of the meeting or as reasonably practicable thereafter
Appeal against redundancy	Within 10 days of receiving the outcome letter
Employee Notified of the outcome of the appeal	Within 5 days of the appeal hearing

## 2. Roles and Responsibilities

The **Council** is responsible for:

- To seek to avoid redundancies where possible
- Where unavoidable, to deal with them in a fair and equitable manner

The **Employee** is responsible for:

- Attending consultation meeting
- Seeking Redeployment Opportunities

The **Manager** is responsible for:

- Adhering to this Policy
- Consulting with employees
- Ensure all relevant paperwork is completed
- Seeking support and advice from HR and notifying the HR Business Partner of any formal procedures under this policy
- Ensuring that all employees are treated fairly and consistently

The **Head of Service** is responsible for:

- Consider all options prior to redundancy
- Authorising Redundancy Payments in accordance with the TERM1 authorisation process

**Payroll** is responsible for:

- Providing estimated redundancy figures
- Making Redundancy payment

**Human Resources** are responsible for:

- Monitoring, use, application, and reviewing the policy
- Providing support, advice and guidance to managers and employees on all aspects of this policy
- To receive any Appeals which are submitted

**Trade Union Representative or Colleague** role is to:

- Provide Support and Advice to employees
- Attend Formal meetings

### 3.0 Introduction

Denbighshire County Council will seek to avoid redundancies where possible. Where it is unavoidable, the Council will deal with the issue in a fair and equitable manner.

Redundancy is defined by the Employment Rights Act 1996 as a dismissal attributable wholly or mainly to:

- An employer ceasing, or intending to cease, to carry on the business for the purpose of which the employee was employed or, has ceased or, intends to cease, to carry on that business in the place where the employee was employed.
- 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 employed, have ceased or diminished, or are expected to cease or diminish.

## **Scope**

This policy will apply to all employees of Denbighshire County Council with the exception of:

- Staff appointed by School Governing bodies (with the exception of support staff)
- Directors and Head of Service – separate National procedures shall apply

## **Measures to Avoid Compulsory Redundancies**

The Council will take all reasonable steps to avoid compulsory redundancies by considering alternatives; for example:

- Seeking applications for early retirement or voluntary redundancy
- Seeking applications from existing employees to work flexibly
- Laying off casual or contract staff (this does not include fixed-term employees)
- Restrictions on recruitment
- Reduction or banning of overtime
- Filling vacancies from existing or at risk employees
- Redeployment to other parts of the Council

The Council will consider all reasonable alternatives put forward by employees or their representatives.

## **Voluntary Redundancy**

The Council may seek applications for voluntary redundancy as an alternative to compulsory redundancy. The decision whether to seek voluntary applications will be made at the onset of a redundancy exercise and the terms and eligibility and process to apply will be clearly defined and communicated to relevant employees.

When considering applications from volunteers, managers should look at the economic viability; the impact on the service; and unless a business case can be made in support of the application then it should be refused.

### **Fixed Term Employees**

An employer cannot select a fixed-term employee for redundancy purely because he or she is employed on a fixed term contract, unless this criterion can be objectively justified. The ability of an employer to objectively justify the less favourable treatment and establish that the dismissal was fair will depend on the circumstances. For example, where an employer has engaged a team of workers on fixed term contracts to perform a specific task, when the task is completed it may be able to justify dismissing those employees, rather than widening the pool for selection to include other permanent employees who are performing similar work or who have similar skills and abilities.

### **Pregnant Employees**

Managers need to be mindful that the period from the beginning of pregnancy to the end of maternity leave is a 'protected period' during which the woman is entitled special consideration under the Equality Act 2010 and has the right to return to the same job as before she left for maternity leave. Managers should seek advice from HR Business Partner on the special considerations they need to apply.

### **Redundancy where employee has more than one post**

In some cases an employee may have more than one contract of employment with Denbighshire County Council, and it is possible to be made redundant from one post, but continue to work in others. Where an employee who is made redundant has one or more post, there is a need to examine the facts surround the existing contracts to establish whether or not service from other existing contracts or previously terminated concurrent contracts should be taken into account when calculating their redundancy entitlement.

If an employee has 2 positions and takes redundancy from one post and remains in employment in the other post then the normal rules apply with regards to gaining further employment with the Council in future i.e. if the employee has received a payment for 20 weeks redundancy pay then the employee cannot take up any new positions with the Council for a minimum of 20 weeks.

## **4.0 Consultation**

It is good practice to consult with both the employee concerned and their representatives whether there is a legal requirement to do so or not.

Consultation imposes an obligation on the Council to negotiate with a view to reaching an agreement. For consultation to be effective and meaningful it must commence at an early stage in the process so that it can influence the final decision.

When undertaking consultation, the manager needs to ensure that he/she has identified the risk group and that the group are all involved in the consultation. If there is an employee who is absent from the work place for example on maternity leave or sick leave, the manager must ensure that they are involved in the consultation process. This may need to be done in writing, or via a home visit.

Meaningful consultation should include the following:

- Trade Union consultation
- Group consultation meetings (where more than one person is effected)
- Individual consultation meetings (minimum of 2 meetings)

Where the Council is planning to make 20 or more people redundant at one establishment over a 90 day period, there is a legal requirement to consult the recognised trade unions.

If 100 or more employees are to be dismissed over a period of 90 days or less, then the consultation must begin at least 90 days before the first dismissal takes effect.

If less than a 100, but at least 20 employees are to be dismissed over 30 days or less, the group consultation must begin at least 4 weeks before the date of the first dismissal.

If less than 20 employees are to be dismissed, consultation must begin as soon as is practicable.

In calculating the number of employees affected, it will be necessary to include the number of employees who may redeployed as a result of the exercise.

Notices of dismissal for redundancy must not be served until the consultation period has ended.

**Please refer to the Consultation Checklist for further details.**

## **Consultation with Recognised Trade Unions**

The Council will consult with the recognised trade unions in all cases of redundancy. This will commence in good time with a view to avoiding dismissals, reducing the number of employees to be dismissed and mitigating the consequences of dismissal.

The business case for change should be sent to the recognised trade unions a minimum of one week (or longer if possible) prior to consultation and if appropriate a pre meeting should be arranged with the Trade Unions before the consultation meeting. The purpose of this meeting is for the Manager and HR to confidentially brief Trade Unions on the proposals (to share proposed structure and likely impact on current posts) and discuss the consultation plan, so that they are prepared for the discussion at the Group Consultation Meeting.

Trade Unions should include Unison, GMB and Unite regardless of the membership of the group. If the staff due to their profession are members of a different union e.g. AEP, a representative from this Trade Union should also be invited should management or HR be aware of membership. The trade unions representatives will be expected to maintain confidentiality at all times.

### **Group Consultation Meeting**

The purpose of this meeting is for Manager to begin the formal consultation process and brief employees and Trade Unions on the proposals and explain and distribute the consultation pack, including an explanation of the redundancy selection criteria used. It is an opportunity to answer questions that they employees have. For large groups of staff it may be necessary to hold more than one meeting and a register of attendance should be kept.

This meeting is the start of the formal consultation process and employees and Trade Unions will have a minimum of 2 weeks and a maximum of 4 weeks (the exact period will be confirmed in the consultation document) to provide their comments in writing.

### **Individual Pre-Meetings prior to the Group Consultation Meeting**

The purpose of this meeting is for the Manager and HR to have a brief discussion with those employees whose posts are negatively affected as a result of the changes, so that they are prepared for the announcement at the Group Consultation Meeting. Trade Union representatives should be notified and invited. Employees who are potentially at risk at this stage should be told and given an at risk letter with a copy of the consultation document.

Please note that this may not be possible if there are a large number involved, so a judgement will need to be made during the planning stage as to the feasibility of these pre-meetings in each consultation exercise. Where all the group is negatively affected then there is no need for the individual pre meeting.



Ideally arrange a 10 minute meeting per individual to meet with them on the day of the Group Consultation Meeting, before the start of the group meeting. At this point the employees should be provided with their written confirmation that their post is 'at risk' and should be added to the redeployment list as per the redeployment procedure.

The redeployment Policy is available on the Denbighshire County Council website.

### **Consultation with Individuals**

Consultation with trade union representatives should not replace consultation with an employee on an individual level. This means that the employee should be informed, as soon as practicable, that their post is potentially redundant and be given an opportunity to comment or make representations prior to any decision to dismiss being taken.

Where it is necessary to seek agreement from Cabinet or any other means to effect a redundancy, consultation with the employee should commence before the report is submitted. When consulting with the employee, the employee has the right to representation by an employee representative, single trade union representative or a colleague.

In circumstances where there is only one employee who is being made redundant the Manager should arrange to meet the employee, accompanied by their Trade Union, if they so wish.

The manager should hold 2 formal redundancy consultation meetings.

1<sup>st</sup> Meeting - This is formal start of consultation where the manager will inform the employee of the business reasons around the decision of redundancy, inform them of the process and consultation period (this should be a minimum of 2 weeks and a maximum of 4 weeks) and will provide the employee with any financial information which is applicable to each case.

2<sup>nd</sup> Meeting – This is formal end of consultation meeting where the manager which consider and respond to any representations from the employee or their representative.

When the consultation period has ceased and any feedback has been formally considered and acknowledged then the employee will receive formal notice of redundancy and be included on the County's redeployment list.

Great sensitivity is required when dealing with a person who is facing redundancy. They may be angry, worried or upset and this may affect their work and relationships with others. Although it is important that this behaviour does not become unacceptable, a compassionate approach should be taken.

The Redundancy Pocket Booklet provides information for employees who have been identified as 'at risk'. This can be found in on the Denbighshire County Council website.

An individual who is facing redundancy may wish to contact Occupational Health, in confidence, at any stage. They can provide counselling and support or make arrangements for referral to an external counselling service should this be necessary

## **5.0 Selection for Redundancy**

The Council will initially determine which position are affected by the proposed changes and thereby identify the redundancy selection pool. There is no minimum or maximum number of employees who can be included in a pool for redundancy and if a specific job is identified which is unique and performed only by one person it will be appropriate to have a pool of one.

When identifying the selection pool, the council will give due consideration to bumping or transferred redundancy. This is when the potential redundant employee is transferred into the role of another employee who is not redundant and the other employee is dismissed as a result.

When applying the selection criteria to a pool of employees, this must be done by at least 2 managers and with support for HR. All scoring must be clearly detailed on the scoring matrix (please see Appendix B) and this information should be shared with the nominated employees who are then selected for redundancy as a result.

### **Informing Employees of Redundancy Selection**

Once the decision has been made as who will be made redundant the manager must write to all affected employees inviting them to individual meetings to discuss the potential redundancy of their post and provide them with a copy of their own **Redundancy Selection Scoring Sheet (if applicable) Appendix B**.

The letter (template provided) should state clearly the reason for the meeting and include the right to be represented at the meeting by an employee representative, a single trade union representative or colleague.

At the meeting the employee and the line manager should go through the Redundancy Selection Scoring Sheet (if applicable) and discuss the outcome of the selection procedure. For employees who are selected for redundancy, the manager must be able to give specific reason why they are being made redundant.

The manager should write to the employee confirming the outcome of the meeting and informing them of their right of appeal. If the employee wishes to appeal, it must be received in writing by the Head of Legal, HR & Democratic Services, within 10 working days of receipt of the formal notification of the redundancy.

## **6.0 Redeployment**

The Council will make every effort to seek suitable alternative employment for employees who are affected by redundancy in accordance with the Redeployment Policy, which can be found on the Denbighshire County Council website.

The aim must always be to keep employees in employment. Where the employee is facing redundancy but an alternative suitable post has been identified, the employee should be offered the post even if they have indicated that they would prefer to take redundancy. If the employee subsequently turns down the offer of alternative employment, redundancy pay must be withheld.

Where suitable alternative employment is confirmed, the notice of redundancy will be withdrawn. Suitable alternative employment could be a job role where the employee matches the essential criteria, that is one grade above, one grade below or on the same grade as the employee's 'at risk' position. Employees who unreasonably refuse an offer of suitable alternative employment will not be entitled to a redundancy payment.

The employee will be given a four week trial period in the alternative employment. The purpose of the trial period is to give the employee a chance to decide whether the new job is suitable without necessarily losing the right to a redundancy payment.

The Council will also use the trial period to assess the employee's suitability for the alternative post. If the Council decides that the alternative employment is unsuitable, the employee will be entitled to a redundancy payment under their original contract.

Employees who are redeployed due to redundancy do not get disturbance allowance or pay protection.

## **7.0 Notice Period**

The employee will be entitled to a minimum of one week's notice for every completed year of service up to a maximum of 12 weeks. The minimum notice period is 4 weeks.

Employees will normally be required to work their notice period. The Council may in certain circumstances place the redundant employee on garden leave for the duration of their notice. This effectively means that the Council does not require the employee to attend work and they are placed on leave with immediate effect.

During this time, the employee will continue to receive their salary and accrue statutory employment rights. The Council reserves the right to request an employee on garden leave to attend work at any time during their normal contracted hours and the employee will be obliged to attend. The employee will not be allowed to work for another employer whilst they are on garden leave.

Employees will be allowed reasonable time off work during their notice period to seek alternative employment and/or retraining opportunities. Where an employee is successful in obtaining alternative employment outside of the Council or with any employer covered by the modification order, an early release date may be agreed at the Council's discretion. In these circumstances, the employee would forfeit the balance of any outstanding notice entitlement but would still be entitled to a statutory redundancy payment.

## **8.0 Redundancy Payments**

To qualify for a redundancy payment, an employee must have at least two years' continuous service with the Council, or associated employer as to which the Redundancy Payment Modification Order (Local Government) 1983 (as amended) applies.

An up to date Modification Order can be found at <http://www.legislation.gov.uk/ukxi/2010/903/contents/made>

### **Employees under the age of 55**

Redundancy payments will be in accordance with the enhanced redundancy calculation table available in [Appendix C](#). This depends on age and length of service and is calculated on the basis of completed years of service with the employer up to a maximum of 20 years.

The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the Council to the employee under the current contract of employment for working their normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the period 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

Subject to the overall benefit and interest of the Council being determined, calculation will normally be based upon Actual Pay rather than the Statutory Maximum.

Continuous service will include continuous previous service with any public Council to which The Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order (Amendment) Order 2010.

If there is a break of more than a week (running from Sunday to Saturday) between two contracts, continuity will be broken (except where there is a redundancy and a new job is taken up within 4 weeks, but please note that in these circumstances you would no longer be entitled to your redundancy payment).

If an employee unreasonably refuses an offer of suitable alternative employment, then he or she will not be entitled to a redundancy payment.

### **Employees over the age of 55**

An employee over 55 whose employment is terminated due to redundancy will receive an enhanced redundancy payment in accordance with [Appendix C](#) and if eligible for Local Government Pension, unreduced basic pension benefits. Please refer to the Early Termination of Employment (Discretionary Payments) Policy, which is available on the Denbighshire County Council website.

## **9.0 Right of Appeal**

An employee who has been dismissed on the grounds of redundancy will be informed in writing of their right of appeal against the decision to dismiss and/or the calculation of any payments associated with redundancy. The appeal must be received in writing by the Head of Legal, HR & Democratic Services, within 10 working days of receipt of the formal notification of redundancy. Please see the Corporate Appeal Policy which can be found on the Denbighshire County Council website.

## **10.0 Grievance raised during proceedings e.g. disciplinary, redundancy etc.**

There may be occasions where an employee, who is subject to another procedure, raises a grievance. The way in which this is handled will depend on the facts of each case. An assessment of the facts should take into account how the grievance is related (if at all) to the matter in hand.

Whether or not the grievance and the ongoing case are associated will be determined by the appointed Deciding Officer.

### **Where the grievance and the other case are related**

In exceptional circumstances it may be appropriate to temporarily hold the ongoing proceedings while the grievance matter is investigated further. The aim here is to establish whether the complaint has a material impact on the case and eventual outcome.

Be mindful that other ongoing proceedings should not be delayed unnecessarily.

### **Where the grievance and the other case are not considered to be related**

In such cases it is advised that both cases are dealt with separately and that they run concurrently. The proceedings of the case in question may not be impacted by the grievance raised and should therefore be able to continue as planned.