

Redundancy procedure

(Effective from 6 April 2024)

1. Purpose

It is accepted that from time to time the needs of the business will change, sometimes necessitating a reduction in the number of staff employed.

Whilst in such circumstances all reasonable steps will be taken to mitigate job losses including the reduction in "regular" overtime to ensure that the maximum number of employees are employed, ensuring that the use of agency workers is kept to a minimum, and wherever possible by seeking volunteers for voluntary redundancy, there may be occasions where there is no other alternative but to make compulsory redundancies.

The following procedure sets out Lancashire County Council's approach to dealing with redundancies.

2. Definition of redundancy

Under the Employment Rights Act 1996 redundancy arises when employees are dismissed because:

- the employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was so employed; or
- the employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed; or the requirements of the business for employees to carry out work of a particular kind has ceased or diminished or are expected to cease or diminish; or
- the requirements of the business for the employees to carry out work of a particular kind, in the place where they were so employed, has ceased or diminished or are expected to cease or diminish.

3. Scope

The procedure applies to all employees of the County Council excluding:

- Teachers, whose pay is determined by reference to the School Teachers Pay and Conditions Document
- Non-teaching employees in schools

4. Procedure

Step 1 Identify selection pool and selection criteria

Where a reduction in employee numbers is likely, the Executive Director will identify the group(s) of employees affected. He/she will also identify the numbers and descriptions of employees who may have to be made redundant within the group(s).

The selection pool of employees must be defined fairly and consideration must be given to the extent to which employees are doing similar work and the extent to which the employees' jobs are interchangeable.

There may be instances, such as the closure of a particular service, where it may be evident which posts are no longer required. Where it is clear which posts are redundant and there is no need to select from a larger pool, the application of selection criteria may not be necessary.

Selection for redundancy should be made on the basis of objective selection criteria that can be clearly understood by managers, employees and employee representatives.

The chosen selection criteria must be capable of objective justification and of being supported with evidence and data. For example, performance, skills, qualifications, attendance records, disciplinary records and other factors such as last in first out could be used as selection criteria as they are easily evidenced. Please note, last in first out should only be used as one of several factors or as a tie breaker.

The selection criteria must not discriminate against staff on the grounds of any of the protected characteristics covered by the Equality Act 2010 (age, sex, race, religion and belief, disability, sexual orientation, gender reassignment, marriage and civil partnership and pregnancy and maternity), or an employee's part-time or fixed term status (Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000; Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002).

Length of service should not be used as the sole criterion for selection as this could potentially lead to claims of indirect age and/or sex discrimination. Similarly, any disability or maternity/pregnancy related absences should be discounted from attendance records if using attendance records as a criterion, as this could potentially lead to claims of indirect discrimination on the grounds of disability or pregnancy and maternity.

Step 2 Consultation

Consultation will be carried out with the relevant employees and employee representatives in respect of any redundancy proposals as soon as practicable and as fully as possible.

Consultation must include those employees who are absent due to sickness or maternity/paternity/adoption/shared parental leave, which may entail special arrangements being made to ensure notification and consultation are undertaken.

Consultation must be meaningful and will focus on ways of avoiding redundancies, reducing the numbers to be dismissed and mitigating the consequences of any dismissals that subsequently take place. The following information must be provided in writing to affected employees and employee representatives and should form the basis for consultation:

- The reason(s) for the proposed redundancies
- The numbers and descriptions of employees proposed to be made redundant
- The total number of employees of this description employed by the County Council at the establishment in question
- The total number of agency workers engaged, the areas of the business in which they are utilised and the type of work they are contracted to undertake.
- The selection criteria and proposed method(s) of selection
- The proposed method of carrying out the dismissals and the anticipated period over which dismissals are to take effect
- The calculation of any redundancy payments to be made in accordance with the Redundancy Payment Scheme

Collective Consultation

Under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, where 20 or more employees are to be made redundant (including volunteers for redundancy) at one establishment within a period of 90 days or less, consultation must be undertaken with employee representatives as detailed below.

Under Section 193 of the Act, the Secretary of State for Business, Innovation and Skills must be notified using form HR1, which is available from the Insolvency Service website. The information contained within the bulleted list above must be provided in writing to employee representatives before consultation commences.

The minimum periods for consultation for collective redundancies are as follows:

- At least 30 days before the first dismissal takes effect if 20 to 99 employees are to be made redundant at one establishment over a period of 90 days or less
- At least 45 days before the first dismissal takes effect if 100 or more employees are to be made redundant at one establishment over a period of 90 days or less.

NB: Employees who are made redundant must be given their contractual notice following the conclusion of the consultation period.

Step 3 Selection for redundancy

Voluntary redundancy

As an early measure, employees may be invited to volunteer for redundancy.

Invitations to volunteer may be offered to employees affected by the proposals. At the discretion of management, employees who are not directly affected may also be invited to put themselves forward for voluntary redundancy in order that consideration can be given to "bumped" redundancies (i.e. moving an employee from a redundant post (post A) to another post (post B) and making the employee in post B redundant).

When seeking volunteers for redundancy it is important to guard against losing the skills, knowledge and experience that are required for future service delivery.

When inviting requests for voluntary redundancy it is important to:

- Make it clear from the outset that there is no guarantee that an application will be accepted and that management has an absolute right to decide whether any particular employee should be selected.
- Make it clear that an application for voluntary redundancy will only be considered where the employee agrees that they will not apply for posts with the Council, including casual work and paid consultancy work, for a period of three years following the termination of employment.
- Make it clear that in exceptional circumstances, any offer of payment for voluntary redundancy may be withdrawn where an offer of suitable alternative employment is made and unreasonably refused by the employee prior to the date of termination.
- Consider whether or not the post can be deleted, what impact this would have on service delivery/continuity and how this might be managed.
- Take account of the need to retain types of knowledge and skills that are believed to be essential to meet future business needs.
- Ensure that there remains a balance of people with different skills.

Account should also be taken of the need to ensure that the associated redundancy and pension 'strain' (if appropriate) costs can be recovered within the period determined by the Council. Costs exceeding the "pay back" period require the prior approval of the Director of Finance. When considering any application it is important to take account of any one off or ongoing consequential costs (for example, any regrading costs resulting from the proposal).

Consultation must still be undertaken where the employees to be made redundant are volunteers.

Employees who volunteer for redundancy and who qualify for payment will be entitled to a redundancy payment in accordance with the Redundancy Payments Scheme.

Where voluntary redundancy is approved, the employee will receive written confirmation of their dismissal on the grounds of redundancy. An employee may retract their request for voluntary redundancy at any point before the written confirmation of dismissal on the grounds of redundancy is received. If an employee wishes to retract their decision to take voluntary redundancy after they have received written confirmation of their dismissal the Council has an absolute discretion whether to agree to this retraction.

Compulsory redundancy

Where there is no option but to make compulsory redundancies, the chosen selection criteria must be applied in a reasonable, fair and objective manner.

The application of selection criteria and the proposed implementation of new structures will be undertaken by the Designated Officer responsible for the redundancy situation advised by an HR Business Partner.

Individual employees who are selected for redundancy will be written to and invited to a meeting to discuss the outcome of the selection process. The employee will be informed of

the right to be accompanied at the meeting by a fellow worker, trade union representative or an official employed by a trade union.

At the meeting the employee will be informed of the basis on which they have been selected and provided with the following information:

- The reason(s) for the proposed redundancy
- Their score(s) against the selection criteria and their position in the score ranking (where applicable)
- How their redundancy payment will be calculated in accordance with the Redundancy Payments Scheme
- Details of the Vacancy Management System and the Corporate Redeployment Process in relation to identifying suitable alternative employment
- The right of appeal against selection within five working days of the meeting.

The employee will be given the opportunity to discuss and make representations about their selection for redundancy.

Following the meeting, selected employees will be given written notice of the termination of their employment on the grounds of redundancy including a right of appeal against selection for redundancy (see below).

All employees who are selected for redundancy must be notified to the Corporate HR Team at the earliest possible opportunity.

Appeal against selection for redundancy

Where an employee disagrees with their selection for redundancy, they will be entitled to appeal against the decision by writing to the manager responsible for applying the selection criteria within 5 working days of notification of selection for redundancy, setting out their grounds for appeal.

The appeal will be heard by another, preferably more senior, manager who has had no previous direct involvement in the exercise. The manager responsible for applying the selection criteria should be present to respond to the appeal.

The employee will be entitled to be accompanied by a fellow worker, a trade union representative or an official employed by a trade union at the appeal hearing.

See Appendix 1 - Procedure for appeal against selection for redundancy.

Step 4 Alternative Employment

Employees who are selected for redundancy will be granted access to the Vacancy Management System and subject to the Corporate Redeployment Process.

Note - Protection from redundancy (pregnancy and family leave)

Employees have a separate legal entitlement to be offered any suitable alternative employment that is available if they are issued with notice of redundancy in accordance with the below:

Pregnancy & Maternity Leave

Pregnant employees will be given priority for redeployment offers in a redundancy situation from the point at which they inform the council of their pregnancy, until 18 months after the birth of a child, or expected week of childbirth. In the instance of miscarriage, the employee will be prioritised for redeployment offers from the point of notification of the pregnancy until two weeks after the loss of the child.

Adoption Leave

Adopters will be prioritised for redeployment offers in a redundancy situation from the first day of adoption leave to 18 months after the date of the placement of the child.

SPL

For a shared parental leave period of six continuous weeks or more, employees are eligible for priority for redeployment offers in a redundancy situation for 18 months from the child's date of birth.

Efforts to identify suitable alternative employment should continue throughout an employee's notice period.

Employees who are given notice of dismissal by reason of redundancy will be entitled, before the expiration of their notice, to reasonable time off with pay to look for other employment or to arrange for training for future employment.

If an offer of suitable alternative employment is made, but the employee unreasonably refuses to accept it, the employee may lose his/her right to a redundancy payment.

Trial Period

Where alternative employment is offered and accepted after redundancy dismissal notices have been issued, employees have a statutory right to a trial period of four weeks in the new post. See Guidance on Trial Periods for further information.

Step 5 Termination of Employment

An employee dismissed by reason of redundancy is entitled to paid notice in accordance with their contract of employment. An employee may request that all or part of their notice period be waived. There is no entitlement to pay for any period of notice that is waived.

Employees with two or more years' Local Government continuous service may be entitled to a redundancy payment. The amount of this payment will be confirmed when the employee is selected for redundancy and the sum will be paid along with the employee's final salary payment.

The calculation of the redundancy payment will be made in accordance with the Redundancy Payments Scheme which will be reviewed from time to time.

Appendix 1 Procedure for appeal against selection for redundancy

1. The officer (or their nominee) responsible for the selection for redundancy, which is the subject of the appeal, shall present the reasons for the selection.
2. The appellant and/or his/her representative shall be entitled to question the officer referred to in point 1.
3. The appellant and/or his/her representative shall present their case for appeal against selection for redundancy.
4. The officer referred to in point 1 shall be entitled to question the appellant. The officer and the appellant and/or his/her representative shall then be allowed to sum up.
5. At any stage during the appeal, the officer considering the appeal shall be entitled to question both parties.
6. Both parties to the appeal shall withdraw and the officer considering the appeal shall reach a decision in private which shall be confirmed in writing to both parties within a reasonable timescale.

Policy Version Control

Version	Date	Change
1	06/04/24	<ul style="list-style-type: none">○ Policy updated to reflect the Protection from Redundancy (Pregnancy and Family leave) Act 2023
