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Redundancy and Redeployment Procedure

1. Introduction

Lewes District Council (LDC) is committed to maintaining job security for its employees where possible. Where changes require a reduction in staff LDC will consider other measures before the use of compulsory redundancy however circumstances may arise where changes in organisational requirements necessitate the need for redundancies. In order to minimise the impact of such reductions, the following procedure will be adopted wherever possible.

It should be recognised that where the needs of the organisation so dictate, the procedure may be adapted to the particular circumstances which prevail.

2. Definition

Redundancy occurs when there has been or is going to be a cessation of business, a cessation of the business at the employee's workplace or where there is a diminishing need for employees to do work of a particular kind.

3. Objectives

The objectives of the procedure are, when a review of policies or services is proposed that may affect the continued employment of an employee of the Council:

- To preserve, as far as the Council lawfully can, stability of employment for Council employees
- To ensure that full consultation is carried out in accordance with the requirements of the law and good employment relations practice
- To set out the steps that might be taken to avoid the need for compulsory termination of employment
- To ensure that the Council acts fairly and consistently

4. Consultation

There is a general duty to consult with employees over changes to organisational structures and jobs. Staff and recognised trade unions will be made aware of proposals for organisational change and the rationale, at the earliest possible opportunity, regardless of whether any redundancies are likely to occur.

The Head of Organisational Development / HR Manager shall inform Unison at the earliest possible opportunity of any circumstance from which it appears that staffing numbers might need to be reduced. It is recommended that this is done using the Staffing Assessment template attached as Appendix A. Consultation with Unison will be ongoing throughout the process.

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Once Unison has been informed, an initial meeting with staff will take place at the outset of the process outlining the reasons for the change. Staff will be informed in advance that this is a consultation meeting, will be given reasonable notice (usually 5 working days), and will have the opportunity to be accompanied by a Unison representative or workplace colleague. Any staff who are currently absent from work (for example on maternity leave) must be included in the consultation. Managers should speak to HR to determine the most appropriate way of doing this.

During the consultation staff should receive the following information:

- Details of the proposals including in the case of potential redundancies, the proposed method of selecting the employees who may be redundant
- A clear communications strategy, with details of how feedback will be accepted
- Proposals for implementation
- A timetable, including dates of meeting and
- Information about what support is available to employees

The volume and complexity of this information will vary according to the size and complexity of the restructure.

In some circumstances it may be helpful to hold additional individual consultation meetings with staff at risk of redundancy to answer any outstanding questions that they may have or allay fears or concerns.

Unison and employees will be given reasonable time to formulate and formally put forward any counter proposals for consideration if they wish and very careful deliberation will be given to any formal responses put forward.

Employees and Unison should be provided with a written response to any written feedback that they have submitted on the proposals and should be provided with details of the proposed final structure.

The statutory minimum consultation periods for proposed redundancies will be observed. These are:

- Begin consultations at the earliest possible opportunity where the number of redundancies proposed is less than 20
- Begin the consultation process at least 30 days before the first termination of employment takes place, where between 20 and 99 redundancies are proposed
- Begin the consultation process at least 45 days before the first termination of employment, where the number of redundancies proposed is 100 or more.

If redundancies are required, consideration will be given to the following, subject to the Council's needs at the time. The list is not exhaustive and is not in any order of priority.

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A. Reduction in the Use of Contractors or Agency Staff

This means reducing or abandoning the use of a particular service or services provided or to be provided to the Council by any external hirer or contractors. It also includes stopping the use of agency or contract staff employed on a temporary basis. It does not mean reducing or stopping the type or level of any particular service provided by the Council.

The following factors will be taken into consideration:

- the extent to which the service concerned could be provided by the employees of the Council
- the extent to which additional direct employment would be created including the duration of the employment concerned
- the financial effect of the Council undertaking the same or reasonably similar work without the use of contractors or agency staff, including any costs arising from the cancellation of contracts
- the extent to which the reduction or abandonment of the service would be a breach of any agreement, contract, or practice and the likely present and/or future implications as regards the Council's relations with the hirers or contractors concerned

B. Reduction of Overtime Working

This means reducing the level of non-contractual overtime being worked by Council employees.

The following factors will be taken into consideration:

- the extent to which a reduction of overtime working would provide employment for other employees who might otherwise be displaced;
- the extent to which overtime results from infrequent and/or irregular peaks of work
- the extent to which additional direct employment would be created including the duration of the employment concerned
- the financial effect on the Council of undertaking the same or reasonably similar work using non-overtime labour
- the extent to which the work undertaken as overtime would, with a reasonable degree of retraining, be within the capability of any employees who may be at risk of being displaced.

C. Restriction on Recruitment

Restriction on recruitment means:

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- A restriction on the creation of new posts on the authorised establishment of the Council
- A restriction on the filling of vacancies which arise in the authorised establishment of the Council.

The following factors will be taken into consideration:

- the extent to which the work of the vacant or new post needs to be done at all
- the extent to which the work of the vacant or new post can be undertaken by other existing employees without creating too great a burden of work for them or unduly constraining or preventing the Council to provide the standard, level, quality or quantity of service required
- the extent to which the duties of the vacant posts would, with a reasonable degree of retraining, be within the capability of any employees who may be at risk of being displaced

D. Voluntary Early Retirement

This means retirement before the normal retirement age of 65. “Voluntary” means that the Council shall invite employees who are able to retire early to do so, but shall not endeavour to compel them to do so.

The following factors will be taken into consideration:

- the extent to which the work of the Council may suffer through any loss of experience or particular skill;
- the extent to which more than one inexperienced or relatively unskilled person might be required to do the work of the employee who might take early retirement
- the financial effect on the Council of accepting the voluntary early retirements
- the extent to which the duties of the subsequent vacant posts would, with a reasonable degree of retraining, be within the capability of any employees who may be at risk of being displaced

There is no obligation on the Council to accept any request for early retirement, even if invitations to consider it have been issued.

Where early retirement is agreed by the Council then the Council shall, in writing, invite the employees concerned voluntarily to take early retirement. Such an invitation shall stress that there is not requirement on any employee to accept the invitation and also advise him/her of the advisability of consulting his/her Union representative and set out the terms including any added service permitted within the Pension Regulations.

The discretionary benefits, such as added years, which may be offered by the Council, will be calculated on an individual basis, having regard to the circumstances in which

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early retirement is being considered. There is no automatic entitlement to additional benefits, and additional benefits given at any time do not set any precedent for future events or employees.

E. Termination of Temporary or Casual Appointments

A temporary appointment is any temporary appointment, whether the post is part of the agreed establishment of employees of the Council or not.

A casual appointment is any arrangement in place where work is offered occasionally, but there is no guarantee of work, nor is there any expectation that the individual worker must take any work offered.

The following factors will be taken into consideration:

- the extent to which terminating such appointments is contractually possible
- the extent to which employment for permanent employees might be created
- the financial effect on the Council of changing the way the work of the temporary or casual appointments is carried out
 - the extent to which the duties of the vacant posts would, with a reasonable degree of retraining, be within the capability of any employees who may be at risk of being displaced

F. Voluntary Redundancy (temporary additional measure July – December 2014)

Where there is a need to reduce the numbers of employees the Council may, at its discretion, take expressions of interest from volunteers for redundancy whose jobs could provide employment for employees who are or may be formally put 'at risk'. A temporary Voluntary Redundancy Procedure is attached as [Appendix B](#).

5. Internal Redeployment

Internal redeployment means the provision of employment by the Council in a different section, group or department of the Council, including the undertaking of different but suitable work within the capability of the individual employee given suitable and adequate training. The Council will attempt to seek suitable alternative employment for staff under the threat or notice of termination of employment for redundancy, and employees have a shared responsibility with the Council in seeking redeployment. An employee formally placed 'at risk' will be invited to an individual meeting with their manager and a member of the HR team. Staff will be invited to be accompanied by a Unison representative or workplace colleague. The purpose of the meeting will be to:

- Provide an opportunity to discuss the situation in confidence and talk about any issues or concerns the employee may have

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- Advise the employee about redundancy figures and, where appropriate, pension estimates
- Discuss the employee's qualifications, skills, experience and areas of work in which they are interested. These details will then be held on record and referred to if internal vacancies occur. It is helpful if the employee prepares a summary of their experience, skills and qualifications before the meeting to form the basis of the discussions.

When considering internal redeployment the following factors will be taken into consideration:

- the extent to which the section, group or department concerned can offer employment to employee who would be otherwise displaced;
- the extent to of the retraining necessary

Internal redeployment will normally be considered suitable if, in any particular case, and taking the factors above into account:

- any change in location and/or place of work is within reasonable distance of the employee's home, bearing in mind the availability of public transport;
- the duties and responsibilities of the new appointment are sufficiently similar to those of the appointment from which the employee will be displaced, taking also into account any previous experience and training;
- the hours of work required in the new appointment are sufficiently similar to those of the appointment from which the employee will be displaced so as not to cause actual inconvenience to the Council or to the employee concerned; and
- the cost to the Council is not significantly increased.

Employees being considered for internal redeployment to a suitable alternative post will be interviewed and considered for redeployment on their own merits and will be given prior consideration for the role above internal staff who are not 'at risk' and above external applicants.

An employee is entitled to a trial period of four weeks which may, with the agreement of the employee concerned, be extended to a maximum of six months to cover the period of any necessary retraining. During this trial period, or at its end, the new appointment may be terminated whether by the Head of Service or the employee concerned. Then the employee shall be deemed to have reverted to his or her former appointment and shall be considered under the provisions of this procedure as though the new appointment had not been made.

Employees may be entitled to have their pay protected if there is a reduction in their pay as a result of being redeployed as an alternative to redundancy. If the basic salary of the original post exceeds that of the job into which they are deployed, the employee's basic salary at the date of transfer will be preserved. The employee will continue to

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receive any applicable nationally agreed pay awards however incremental advance will not be applicable until the basic salary of the new job catches up with their personally protected salary. Throughout the period of protection, the employee shall not unreasonably refuse a subsequent offer of employment in an alternative suitable employment where the normal payment for that alternative employment matches or nearly matches the level at which the employee's pay has been preserved, and a condition to this effect shall be included in the contract of employment referred to above.

The protection of pay will be as follows:

Year 1 – 100% of the old salary

Year 2 – 66% of the difference between the new and the old salary

Year 3 – 33% of the difference between the new and the old salary

After three years, the employee's salary will be the maximum of the grade for the post in which he or she is re-deployed.

Where the difference in salary between the two posts exceeds 10%, pay protection would not normally apply, subject to exceptional circumstances, on the basis that it is unlikely to be considered as a 'suitable alternative'.

If for any reason the employee's post is re-graded during the protection period then:

- if the grade is reduced, the protection continues as above;
- if the grade is increased, but the salary level is still below the protected level of the employee, the protection continues as above;
- if the grade is increased to the level at which the employee is protected, then the protection ceases and the employee will receive annual increments to the top of the scale in the normal way;
- if the grade is increased so that the maximum of the grade is greater than the protected salary level the protection is removed and the employee will be assimilated onto the new grade at the higher of the existing spinal column point or the minimum of the grade.

Appendix C is a flowchart which indicates the variety of outcomes that can arise from a proposal for change.

6. Compulsory Termination of Employment

If it is not possible to prevent the compulsory termination of employment of an employee using the steps above, then his or her employment will be terminated using the steps below.

The factors that will be taken into account in selecting the employees for compulsory termination may include:

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- Age
- Length of Service in Local Government or with the Council
- Attendance record (reasons for and extent of absence, not purely sickness)
- Disciplinary record
- Performance record
- Special circumstances

The weighting of the above factors will vary for each individual case and are not set out in any priority order. Full consultation with Unison will be continued as an extension of the previous discussions and will include:

- Informing officers on the Unions on progress
- Encouraging individual employees to use any assistance available from their Union Representatives.

The Council will give employees selected for compulsory redundancy:

- a full statement of their position setting out effective dates, financial entitlements, and options within the pension scheme.
- Time off with pay for purposes of:
 - Attending interviews
 - Using advisory and counselling services of relevant agencies
 - Reasonable time off to attend to domestic matters precipitated by redundancy or new job requirements

Redundancy payments will be paid as set out in the Council's Early Termination of Employment (Discretionary Compensation) policy.

Contractual notice will be given and will be worked wherever possible.

Pension benefits will be paid as set out in the Council's Early Termination of Employment (Discretionary Compensation) policy. There is no automatic entitlement to discretionary benefits, and additional benefits given at any time do not set any precedent for future events or employees.

7. Support

A range of support mechanisms will be available for employees who are involved in organisational change which may include one or more of the following:

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- Support from the line manager, the HR team and from Unison
- Information relating to pay, redundancy and pension figures
- Time off to job search and seek financial and other appropriate advice (when formally 'at risk' of redundancy)
- Counselling support
- Access to external support covering things like how to write an application for, prepare for an interview and some general career coaching
- Priority access to internal vacancies similar to your current role
- Training

8. Appeals

An employee may appeal in writing against dismissal on the grounds of redundancy to the relevant Chief Officer/Senior Head of Service within 10 working days of the letter giving formal notice of redundancy. The appeal will be heard by a Council Appeals Panel comprising three members of Employment Committee. On receipt of an appeal the Chief Officer/Senior Head of Service will notify the Human Resources Manager who will convene an Appeals Panel, usually within 10 working days.

The Panel will consider the case and determine whether or not to confirm the decision to make the employee redundant. This decision will be confirming in writing to the employee within 10 working days.

An appeal does not restrict an individual's right to notify ACAS of intent to appeal to an Employment Tribunal on the application of the procedures leading to a redundancy.

9. Status of the Procedure

This procedure has been adopted after consultation with Unison and both parties shall use their best endeavours to ensure that the spirit and intention of this procedure are honoured at all times.

This is a non-contractual procedure and the Council reserves the right to withdraw, amend or otherwise revise this procedure after consultation with Unison.

Policy produced by	HR
Date of policy	July 2014
Date of review	July 2016
Policy ratified by	CMT

APPENDIX A - Organisational Change Staffing Assessment

Introduction

This staffing assessment has been developed in consultation with Unison and will be used when there are plans for organisational change that could have a number of staffing implications such as potential redundancy, significant changes to working practices etc.

The proforma will be kept under review and appropriate revisions incorporated as the need arises.

Staffing Assessments

These should be completed at the outset of any review or change issue and be kept under review throughout the process.

An assessment should be completed by the relevant manager/project lead with support from HR and a copy sent to the Branch Secretary of Unison (Lewes District Council Branch) at the earliest possible opportunity. It may be that not all information can be provided initially however this should not stop the manager from completing the assessment and sending it to Unison.

One assessment will normally be required for each individual organisational change proposal and each assessment will follow a system of version control.

The information required is:

Title of the proposal(s)
Reasons for the proposals
Other options that have been looked at and the reason for not proceeding with them
Timescales for any changes
Effects on the requirements for staff
Numbers, names, post titles, grades, department and workplace of staff concerned and the total number of staff potentially affected
Proposed structure charts, job descriptions, person specifications including any

changes to working arrangements and methods of work
Details of any consultation undertaken with staff on the proposals
Proposed arrangements for any transfer of staff between departments and/or locations
Any implication for the health and safety of staff (including appropriate Risk Assessment)
Proposed method of implementing changes
Proposed methods of filling posts under the restructure
Proposed management actions for dealing with the staffing implications of the assessment
Equality Impact Assessment of the proposals for Organisational Change (These assessments should be in accordance with EHRC guidance)

Redundancies

In cases where organisational change may lead to posts being put at risk or made redundant, the following additional information is required. This supports the Council's Redundancy and Re-deployment Procedure.

Details of consultation arrangements for affected staff
The timescales for consultation, decision and implementation
The proposed criteria for the selection of staff, which must be non-discriminatory and justifiable. An Equality Impact Assessment of the selection criteria must be carried out.

Appendix B – Voluntary Redundancy Procedure (July – December 2014)

Introduction

Lewes District Council is committed to creating as secure an employment environment as possible and will therefore continue to endeavour to avoid compulsory redundancies wherever it can. However, at our discretion we can take expressions of interest from volunteers for redundancy whose jobs could provide employment for employees who have or would enter the redeployment register.

At this time the Council have decided to invite expressions of interest for voluntary redundancy from July 2014 for 6 months in agreement with the Council's recognised trade union, Unison.

Employees are invited to indicate their willingness to consider voluntary redundancy following consultation with the Unison during this time period. This invitation from the organisation does not imply any commitment on either part.

An individual estimate of benefits will be prepared for those who come forward based on a specified estimated end date. They will then be asked to confirm by a specified date whether they wish to proceed.

HR will collate all expressions of interest for voluntary redundancy and they will be treated in confidence whilst they are being explored. At that stage the expression of interest does not form a binding agreement on either side.

In determining which employees will be granted release on voluntary redundancy the Directors and Heads of Service will be considering the following:

- The need to maintain efficient and effective services
- The need to retain a balance of key experience and skills across the workforce to meet future needs
- The financial implications of the release

If there are more volunteers than are required, the decision made will ensure there is a balanced workforce with the requisite skills to meet future business needs. The Council reserve the right to accept or reject applications for voluntary redundancy.

The Process

Expressions of interest in voluntary redundancy must be made by the individual concerned and initiated by completing the Voluntary Redundancy Form and emailing it to human.resources@lewes.gov.uk

Following receipt of the form arrangements will be made for the employee to receive estimated details of the compensatory benefits they would receive should their application be successful.

Following receipt of the estimate of the redundancy payment, the employee will then have 5 working days to withdraw or confirm their expression of interest.

The expression will be reviewed by the relevant Head of Service and/or Director in consultation with the Chief Executive.

At the end of the consultation period the Head of Service will confirm to the volunteer whether or not they have been accepted for voluntary redundancy.

There is no right to appeal if an expression of interest for voluntary redundancy is declined.

If an individual is selected for voluntary redundancy he/she will have a final consultation meeting and a consideration period of no less than 5 working days prior to being issued with a notice of dismissal on grounds of redundancy.

Where an application is accepted, notice of redundancy will be issued in line with the employee's contractual or statutory entitlement (whichever is greater) confirming the redundancy payment and, if relevant, pension figures based on the confirmed leaving date.

An employee will be expected to work their notice period; if they wish to leave early this may be possible if their Head of Service or Director agrees to an early release but he/she will waive the remainder of his/her notice period.

In exceptional circumstances, an 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.

Statutory voluntary redundancy payments

Statutory redundancy pay is based on an employee's age and length of continuous service at the date of redundancy and is payable if an individual has more than 2 years' service.

The payment is calculated according to age and length of service and is expressed as a number of weeks' pay.

The statutory payment is calculated as follows:

- Half a weeks' pay for each full year under age 22
- One week's pay for each full year of service age 22 or older, but under 41
- One and a half week's pay for each full year age 41

Lewes District Council has the discretion to make an enhanced redundancy payment based on the statutory redundancy payment formula but calculated on an actual week's pay and increased by a factor of 1.75. This enhanced payment is inclusive of the statutory redundancy payment.

Under this voluntary redundancy scheme you can receive a tax free redundancy payment of up to £30,000 if your application is successful. Amounts after that will be taxed at your normal rate. If you wish to consider your personal tax position you can do so using this link: <http://taxaid.org.uk/situations/employee/redundancy>

Voluntary Redundancy and Early Retirement

If you are over 55 years old and wish to consider voluntary redundancy and retirement or early retirement you will need to contact the Local Government Pension Scheme to determine whether or not you would be eligible to immediately gain access to your pension.

Your pension payments will be determined by how long you have been paying into the pension scheme, your current salary and your age. Taking early retirement means that your employer would bear the costs of the early release, if your voluntary redundancy were approved, so an 'actuarial reduction' would not be made.

You should contact the pension team at Serco who are our Pension Administrators if you wish to obtain a pension estimate (you can do this directly if you are aged 60 plus or via HR if you are age 55 to 59). They can be contacted either by telephone on 01825 744544 or further information can be found on their website

<http://www.eastsussexpensionfund.org/>.

More details regarding the Local Government Pension Scheme can be found on their website at <http://www.lgps.org.uk>.

Appendix C Managing Change Flowchart

