

## Redundancy Policy

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### 1. Introduction

- 1.1 Shropshire Council aspires to be a fair and equitable employer committed to the principle of maintaining the highest possible level of job security for its employees. However, it is recognised that there may be certain circumstances e.g. in times of severe budgetary constraints when staffing reductions are necessary.
- 1.2 In the event of a potential redundancy situation being identified Shropshire Council will endeavour to address this by limiting external recruitment, redeploying employees where possible, considering requests for voluntary redundancy and other reasonably practicable measures in order to avoid a compulsory redundancy situation. However, should compulsory redundancy become necessary Shropshire Council will strive to ensure a consistent and fair method of selection is applied.
- 1.3 The Redundancy Policy sets out how potential redundancy situations and, if necessary, compulsory redundancies will be managed within Shropshire Council.
- 1.4 The policy applies to all Council employees, except those employed directly by schools who have a specific policy available on the Schools Learning Gateway.

### 2. Exclusions to the Policy

- 2.1 The Redundancy Policy will not apply in the following circumstances:

- Termination during, or at the end of a probationary period of service in accordance with the Probationary Performance Policy, whether or not the probationary period was extended beyond its originally specified duration.
- Resignation by an employee, or other termination, by mutual consent.
- To agency staff, contractors or external consultants.
- Apprentices who do not secure permanent employment after their training.
- Employees on a fixed term contract with less than 2 years' service in the affected post.

### **3. Objectives**

3.1 The objectives of the Redundancy Policy are to:

- Ensure the Council complies with its legislative requirements in relation to redundancy situations;
- Provide clear advice when handling potential redundancy situations;
- Outline measures that may be available to seek to minimise or avoid compulsory redundancy;
- Set out a clear framework for the management of compulsory redundancy situations including the application of a Redundancy Selection Criteria;
- Ensure that where compulsory redundancy is necessary employees leave the Council feeling that they have been treated in a fair and equitable manner.

### **4. Potential Redundancy Situation**

4.1 A potential redundancy situation arises when:

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

4.2 As soon as it becomes evident that a potential redundancy situation could exist then the Service Manager, in conjunction with HR Business Partner will identify those likely to be affected, both directly and indirectly.

4.3 In some instances the employee(s) to be made redundant will comprise all those undertaking a particular job. In these circumstances, however, care must be taken to check whether a wider group of employees could potentially be affected as a consequence of them having similar or common contracts of employment. In this situation it may be appropriate to ring fence those employees highlighted and follow the process as detailed in Appendix A.

## 5. Alternatives to Compulsory Redundancy

5.1 In order to avoid or reduce the need for compulsory redundancy alternative measures will be considered. These will include the following:

- Natural wastage through normal staff turnover;
- Suspending relevant external recruitment;
- Reducing overtime;
- Reducing the number of hours worked;
- Voluntary redundancy;
- Redeployment within the Council.

## 6. The Consultation Process

6.1 Consultation must be carried out “in good time” i.e. as soon as redundancies are proposed. Where 20 or more redundancies are proposed there is a statutory duty to consult with the Trade Unions. The Chief Executive or Director with the support of HR will be responsible for issuing a Section 188 notice to the relevant Trade Unions and submitting a HR1 form to the Secretary of State.

6.2 When consulting staff, it is important to consult those who are sick, on maternity, paternity or adoption leave. Failure to consult an employee on maternity leave may lead to a successful sex discrimination claim at tribunal, with unlimited compensation.

6.3 Where the Council is proposing to make redundancies consultation must begin at the earliest opportunity and no less than follows:

<b>Number of employees</b>	<b>Period of Consultation</b>
between 20 and 99 employees at one establishment within a period of 90 days or less,	at least 30 days before the first of the dismissals takes effect.
Over 100 employees at one establishment within a period of 90 days or less,	a period of at least 45 days consultation will apply.
fewer than 20 in one establishment	the Council will endeavour to observe a consultation period of at least 30 days

6.4 Fixed term contracts that have reached their termination date or will terminate during the consultation time are excluded from the requirement to consult collectively.

6.5 An employee(s) and, where appropriate, his/her representative(s) will be provided with the following information as part of the genuine and meaningful consultation process:

- The reason(s) for the proposal(s);
- The number(s) and description of employees proposed to be dismissed as redundant;

- The total number of employees of that description employed at the establishment in question;
- The timeline of the planned consultation period;
- The proposed structure;
- The proposed method of selecting the employees who may be dismissed;
- The proposed method of carrying out the dismissals, including the period over which the dismissals are to take effect; and
- The proposed method of calculating the amount of any redundancy payments – other than statutory payments – to be made to the employees who are dismissed.

Consultation will also include ways of:

- Avoiding or reducing the number of dismissals i.e. considering other options instead of dismissal; e.g. suspending recruitment or reviewing the options for redeployment; and
- Mitigating the consequences of dismissal, e.g. outplacement support

During the consultation process all employees have the option to have individual consultations with management and HR to discuss their options or to put forward evidenced counter proposals to the planned restructure or redundancy.

## **7. Application of the Compulsory Redundancy Selection Criteria**

- 7.1 If, despite consideration of alternative measures, the need for compulsory redundancy is unavoidable, then the 'Redundancy Selection Criteria', attached at Appendix A to the Policy, will be used to determine which employee(s) will ultimately be declared redundant unless it is evident that all employees will be made redundant. In the event of a restructure or job re-design the selection method may be through interviews. It should be noted that the Council reserves the right to amend the redundancy selection criteria/weighting where circumstances suggest that this would be reasonable.
- 7.2 All employees involved in the redundancy selection process will be provided with a copy of the 'Redundancy Selection Criteria', together with an explanation as to how this will be applied, prior to the redundancy selection taking place.

## **8. Redeployment**

- 8.1 The Council will make every reasonable effort to find alternative work within the organisation for any employee who is selected for redundancy. Such employees will be added to the redeployment register for any available vacancies at the time of their redundancy selection and during their notice period.
- 8.2 Where either an employee or management have identified a post as being potentially suitable alternative employment the employee will need to participate in a selection process in order to establish whether or not the position is suitable for the employee taking into account his/her skills, knowledge, experience, level of seniority as well as the terms and conditions of the post.

8.3 Employees who are on Maternity, (or Adoption), leave are legally entitled to be offered any suitable alternative job before any other employee Failure to do so will result in the dismissal being automatically unfair.

8.4 Where an alternative post offered is substantially the same with regards to:

- Existing Grade
- Work location;
- Duties of the post;
- Working hours

the post will be considered Suitable Alternative Employment (SAE).

If the employee accepts the offer of redeployment they will be entitled to a 28 day trial period. The purpose of the trial period is to enable both the Council and an employee to assess the suitability of the post.

8.5 Should the Council deem an employee to be unsuitable for the post, or the employee themselves has concerns about their new role during the 28 day trial period, appropriate action will be taken in consultation with the employee, which may include seeking further redeployment opportunities, but may also include an employee finishing work in line with notice previously issued.

The determination of what is suitable and, indeed, what constitutes an unreasonable refusal is not statutorily defined and hence each case will need to be determined on merit and in consultation with HR

Should an employee unreasonably refuse an offer of SAE, the employee will lose his/her right to any redundancy payment that may be due.

For more information please refer to the [Redeployment Procedure](#).

## **9. Issuing Notice of Redundancy**

9.1 Notice of redundancy will not be issued until the agreed consultation period has elapsed.

9.2 The Council's obligation to the employee must always be read against any additional notice required so the notice period will be whichever is greater; statutory or contractual. Therefore an employee in a Grade 7 post with a contractual notice period of 1 month who has 6 years' service will be given 6 weeks statutory notice. For more information on notice periods please see the [Periods of Notice Policy](#).

9.3 Payment in lieu of notice is not justifiable in cases where the timetable for redundancy is known sufficiently well in advance to give normal notice, and there is nothing else preventing this.

9.4 If you have been made aware through consultation that you are at risk of redundancy the employee and manager need to work together to ensure that all pro rata annual leave and credit/debit hours are taken wherever possible. Payment of annual leave is not

justifiable in cases where employees have known sufficiently well in advance of their termination date. Annual leave needs to be pro rata to their termination date and used prior to leaving. In the event that an individual has exceeded their annual leave entitlement, action will be taken to recover the amount from pay.

## 10. Appeals against Redundancy

- 10.1 Notice of redundancy will contain details of the right of appeal against Selection for Redundancy to the Redundancy Appeals Panel. Any appeal must be submitted in writing to the Head of HR within **10** working days of receipt of the redundancy notification and provide all details of the reason for the appeal. For the full appeal process see Appendix B.
- 10.2 While an appeal is in progress, the contractual period of notice will continue to run from the original date of notification of redundancy.

## 11. Redundancy Payments

- 11.1 All eligible employees (see paragraph 2.1) who are made redundant either following a call for volunteers, or through a compulsory redundancy and have a minimum of two years continuous service with local government or a Redundancy [Modification Order](#) body are entitled to a redundancy payment. Redundancy payments are calculated dependent of the length of continuous service in the affected post. The maximum length of service counted for statutory redundancy pay is 20 years.
- 11.2 Employees will receive the following entitlement:

Service	Entitlement
For service between ages 16 – 21	½ weeks' pay for each completed year of service multiplied by 1.5
For service between ages 22 – 40	1 weeks' pay for each completed year of service multiplied by 1.5
For service from age 41 and above.	1 ½ weeks' pay for each completed year of service multiplied by 1.5

- 11.3 A weeks' pay is defined as the amount to which an employee is entitled under his or her contract of employment when he/she works a normal week. If an employee's working hours vary, or where additional payments are made, pay is averaged over the previous 12 weeks from the date of your termination letter.
- 11.4 If an employee holds more than one post they will only be made redundant from the affected post and will remain in any other posts. Redundancy pay will be calculated on the continuous start date of the post from which they are being made redundant and all other continuous start dates will remain.

For Example:

Post 1: Admin post started 01/01/1990

Post 2: Assistant Social Worker post started 01/01/2005

If you were made redundant from your Admin post then the continuous start date used for redundancy calculations would be 01/01/1990 and your start date would remain as 01/01/2005 for the other post.

If you were made redundant from your Assistant Social Worker post then the continuous start date used for your redundancy pay would be 01/01/2005.

- 11.5 The additional compensatory payment (1.5 multiplier) is calculated taking account of any local government service, and service covered by the Redundancy Payments Modification Order up to a maximum of 20 years in total.

For example:

Current Continuous Service: 4 years from age 41 = 6 weeks' pay (4 x ½ week's pay)  
Previous Service: 10 years from age 20 = 9 weeks' pay (2 years at ½ week's pay + 8 years at 1 weeks' pay)  
Total: 6 + 9 = 15 week's pay x 1.5 multiplier

- 11.6 Final redundancy payments will be made once the employee has completed their notice period and all final salary payments have been made. The redundancy payment will then be calculated and paid on the next available pay run.
- 11.7 Redundancy payments are expressly exempt from income tax. They will, however, be taken into account in determining whether or not the total compensation paid to an employee exceeds the £30,000 tax-free limit.
- 11.8 Any offer of employment made by any local authority (or specified body covered by the Modification Order) accepted whilst under notice of redundancy and commencing within four weeks of the date of redundancy would disqualify an employee from receiving a redundancy payment.
- 11.9 In the event of being re-employed in another local authority post (or with a related employer) after termination and having received a redundancy payment, continuity of service for purposes of any future redundancy pay rights will start afresh.
- 11.10 All employees are responsible for checking their redundancy calculations to ensure any errors are highlighted as soon as possible.

## 12. **Payment of Pension**

- 12.1 Any employee who is subject to these redundancy provisions, who is aged 55 and over at the date of termination and is a member of the pension scheme, will be eligible to receive immediate payment of their pension. In these cases, the employing service will meet any additional strain on pension fund.

## 12.2 Purchasing Additional Pension Benefits

If the employee is a member of the Local Government Pension scheme, there will be an option for the council to purchase additional pension benefits under regulation 13 of the Local Government Pension Scheme Regulations 2013 as an **alternative**, but not as well as additional compensation under section 11.1. The award of additional pension cannot exceed £6,500 from 1<sup>st</sup> April 2015 and that figure is increased on 1<sup>st</sup> April each year. Additional pension benefits can be purchased by the notional additional compensation i.e. the excess over the statutory payment calculated in accordance with paragraph 11.1. This will be at no extra cost to the Council and the calculation will take into account any additional pension costs met by the Council resulting from the early payment of pension benefits. The employee must be an active member of the LGPS and any decision to opt for this alternative must be made before their employment is terminated.

### **13. Assistance to Seek New Employment**

- 13.1 An employee with at least two years continuous service at the dismissal date has a statutory entitlement to reasonable time off with pay during his/her notice period to look for new employment or to make arrangements to undertake training for future employment. The Employment Rights Act 1996 does not specify what is deemed to be a reasonable amount of time off, However, employers do not have to pay more than two-fifths of a week's pay regardless of the length of time off allowed. For example, if an employee works five days a week and they take four days off in total during the whole notice period, Shropshire Council is only obliged to pay employees for two days. Employees are required to provide reasonable notice of their interview, including proof of the interview date, time and location to their Manager
- 13.2 The council also provides a number of courses for employees facing redundancy to give them the skills and knowledge to apply for alternative employment. Further information is available [here](#).

### **14. Review of Policy**

- 14.1 This policy will be reviewed by HR and Development, in consultation with unions.

**1.0 Introduction**

- 1.1 It is essential that during a redundancy process the Council ensures that fair and transparent criteria for selection for redundancy are identified and applied consistently.
- 1.2 As a preliminary stage to selection, volunteers for redundancy may be invited to express an interest and be considered by management. However the Council is under no obligation to accept these volunteers. Care must be exercised when selecting from a list of volunteers to ensure that a balanced workforce remains in order to meet the demands of the service.
- 1.3 The handling of compulsory redundancies where selection is involved requires a systematic approach, if any dismissals are to be judged as fair. There is also an expectation amongst Trade Unions that in the event of compulsory redundancies being necessary, the Council will adopt reasonable selection criteria. These guidelines are to be used in the event of compulsory redundancies affecting National Joint Council for Local Government Services, Soulbury, Youth Service employees, other than those whose posts form part of the establishment of a school. The guidelines aim to ensure that good industrial relations practice is maintained in dealing with difficulties of this kind. There may be occasions where different selection criteria is used and in this case employees will be made aware of this at the beginning of the consultation period.
- 1.4 Any team or service faced with the problem of achieving employee reductions by selection for compulsory redundancy will have the principal objective of maintaining a balanced workforce after the redundancies are carried out, measured against the anticipated needs of the Authority. On this basis the approach to selection will be as follows:-

**2.0 Unit of Selection**

- 2.1 The "unit of selection" should be clearly defined - that is the area of work (based on geography, function and/or level) where reductions are necessary. The relevant Trade Unions and employees concerned will be made aware of the unit of selection by the consultative stages required by the Redundancy Policy.

**3.0 Selection Procedure**

- 3.1 Wherever possible two senior managers and a HR Business Partner together, with responsibility and/or knowledge of staff in the unit of selection will then apply selection criteria in the following way:-

**Stage 1**

Completion of the Selection Criteria Matrix. The application of the redundancy matrix will effectively score or rank the individuals within the pool and identify those employees who are likely to be 'at risk' of redundancy, depending on the number of redundancies needed in the particular service area. Once agreed, for a specific situation, matrices and weighting cannot be changed to influence the results.

<b>Relevant Qualification and skills</b>	<b>Score</b>
Has all the relevant qualifications and skills required	5
Is working towards a relevant qualification and has the skills required	4
Either has the relevant qualification but does not have all the skills required OR has the skills required but does not have the relevant qualification	3
Does not have the relevant qualification or skills	1

<b>Relevant Experience</b>	<b>Score</b>
Has the relevant experience to be able to be effective in the role with immediate effect, or with minimal development	5
Has relevant experience but would require some structured development	3
Has insufficient experience	1

<b>Work Performance</b>	<b>Score</b>
Regularly exceeds target performance in a number of different and additional tasks	5
Regularly achieves target performance in usual tasks	3
Usually performs below target performance	1

<b>Ability to learn new tasks</b>	<b>Score</b>
Learns new tasks faster than the majority of employees at the same level	5
Learns new tasks as quickly as the majority of employees at the same level	3
Needs longer than the majority of other employees at the same level to learn new tasks	1

<b>Attitude towards others</b>	<b>Score</b>
Is always co-operative with colleagues and managers and demonstrates a positive attitude	5
Usually co-operative with colleagues and managers and normally demonstrates a positive attitude	3
Can sometimes be negative and does not always co-operate fully with colleagues or managers.	1

<b>Continuous Employment</b>	<b>Score</b>
Over 15 years' service	5
Between 10 and 15 years' service	4
Between 5 and 10 years' service	3
Between 2 and 5 years' service	2
Up to 2 years' service	1

## Weighting

### Compulsory Redundancy

To achieve the total score for an employee, each criterion is weighted by a factor of 1-3 to reflect its relative importance. The weightings take into account the service's requirements to meet its future service needs and targets as well as the need to maintain a balanced workforce. The weighting will be as follows:

- Qualifications & Skills (x3)
- Experience (x3)
- Work performance (x3)
- Ability to learn new tasks (x2)
- Attitudes towards other (x2)
- Continuous Service (x1)

Having weighted the scores, a total is calculated for each employee. For example, where necessary to reduce the headcount in a service area from 20 to 15 a selection matrix is completed for all 20 employees. The 5 with the lowest scores will be provisionally selected for redundancy.

### Voluntary Redundancy

- Qualifications & Skills (x1)
- Experience (x1)
- Work Performance (x3)
- Ability to learn new tasks (x1)
- Attitudes towards others (x1)
- Continuous Service (x3)

## Stage 2

Where a tie-break situation arises and more than 1 employee has a similar score, the following criteria will be taken into consideration. This criteria is to be used only in such a situation.

Disciplinary Record	Score
No disciplinary record	5
Informal disciplinary discussion / letter of concern	4
Verbal warning	3
Written Warning	2
Final written warning	1

*Only current warnings on file where the disciplinary process has been completed at the date of the selection exercise should apply. Do not take into consideration any current or outstanding disciplinary investigations.*

## Stage 3

If selection is still necessary, timekeeping records will be considered from the previous 12 months. The frequency of and reasons for poor timekeeping will be taken into account.

#### Stage 4

If it has not been possible to select by Stage 3 then an interview or assessment will be carried out.

- 3.2 The personal circumstances of employees at risk of redundancy must not be taken into account at any stage of the selection process. At all stages the employees concerned should be given details of any records to be used.
- 3.3 Where selection criteria have been applied those selected must be notified as soon as possible and in a sensitive manner which fully recognises the difficulties faced by the employee. Those not selected should also be told of the decision as soon as possible.
- 3.4 Where someone has been selected for compulsory redundancy, they must be given the reasons for their selection in writing and notifying them of their right to appeal (refer to section 11).

**1 Process to be followed prior to the Appeal**

- 1.1 The Appeal will be heard by the Chief Executive, or a delegated Director, and the Head of HR will appoint a Clerk to the Appeal.
- 1.2 The Clerk to the Appeal will write to the employee informing them of the date and time of the appeal hearing which will usually be held within three weeks of receipt of the notification of appeal. However, if this will not be possible the employee will be notified of the likely timescale. Acknowledgement of receipt will be required from the employee and the employee must also provide any written evidence they intend to use in the hearing to the clerk of the Appeal at least seven days in advance of the hearing.
- 1.4 Seven days prior to the Appeal, the manager who made the redundancy decision will prepare a statement of case and send it to the Clerk of the Appeal. The statement of case will need to explain the following:
- The papers (often including committee reports) which provide information on the need for the redundancy
  - The selection criteria used (where applicable)
  - Details of the employees in all posts included in the pool for redundancy selection broken down by gender, age, start date, ethnic origin, disability and length of service in current post.
  - Any measures taken to try and avoid compulsory redundancy
  - Details of consultation arrangements
  - The reasons provided by the employee appealing against redundancy.
- 1.5 Although the employee is likely to have seen the documentation contained within the statement a copy should be sent to the employee seven days before the hearing by the Clerk of the Appeal.

**2 Process to be followed at the Appeal**

- 2.1 An employee has the right to be accompanied, at the Appeal, by a Trade Union representative or work colleague.
- 2.2 At the Appeal it will be the responsibility of the manager who made the redundancy decision to demonstrate to the Redundancy Selection Appeals Panel that the redundancy selection criteria have been applied fairly. It will be for the employee or his/her Trade Union representative, or work colleague, to demonstrate to the Redundancy Selection Appeals Panel that the redundancy selection criteria have been applied inappropriately and/or the information considered had been incorrect resulting in the employee being selected wrongly for redundancy.
- 2.3 The Chief Executive, having considered submissions from both parties, can determine that the redundancy selection criteria had:
- Been applied correctly and dismiss the appeal;

- Not been applied correctly and/or the information upon which it was based was incorrect but that the resultant amendments would have made no difference to the outcome of the redundancy selection and on these grounds dismiss the appeal;
- Not been applied correctly and/or the information upon which it was based was incorrect but it was unclear what impact this would have on the redundancy selection and so refer the matter back to the Redundancy Selection Panel for reassessment;
- Been applied incorrectly and/or the information upon which it was based was incorrect with the result that the employee had been selected wrongly for redundancy and so uphold the appeal;
- Not been applied to the correct group of employees and so refer the matter back to the Redundancy Selection Panel for re-assessment.

### **3. Process to be followed after the Appeal**

- 3.1 The decision of the Chief Executive will be final.
- 3.2 The Chief Executive will give the outcome to the appeal in writing as soon as reasonably practicable and normally within 14 working days.
- 3.3 Where the appeal is unsuccessful and a redundancy decision is confirmed, employment will terminate on the date specified in the original written notification of redundancy.
- 2.5 In the event that an appeal against redundancy selection is allowed this may mean that another employee will have to be selected for redundancy, provided that the alternatives to redundancy have been considered in respect of the selected employee and the employee has subsequently been afforded the right of appeal. In these circumstances the employee concerned should be advised as soon as is practicable and the opportunity to appeal afforded.