

Personnel Committee – 1st March 2017

Redundancy Procedure

1. Summary of report

The purpose of this report is to seek approval for the updated Redundancy Procedure (appendix 1).

2. Recommendations

Personnel Committee is recommended to:-

- Agree the Redundancy Procedure to take effect immediately.

3. Background

The Councils' existing redundancy procedure is currently silent on the re-engagement of employees following a redundancy situation. This has led to some inconsistencies across directorates and service areas in relation to re-appointment through agency arrangements. Following CMT's request to address this, the redundancy procedure has been revised to include a new section **10.0 Re-engagement following redundancy** (see page 10 of the attached procedure at appendix 1). Section 10.0 is the only change to the procedure, all other detail remains unchanged.

Whilst the existing redundancy procedure is silent on re-engagement, current practice for the direct reengagement of an employee by Walsall Council is as follows;

1. Where employees have been dismissed through compulsory redundancy (CR) they can be reengaged by Walsall Council after 1 month and 1 day, unless they have accessed their pension, in which case the time period increases to 12 months.
2. Where employees are granted voluntary redundancy (VR) they can be reengaged by Walsall Council only after a period of 12 months.

Given this current practice, an initial proposal was outlined to CMT that proposed no changes to the current practice (identified at points 1 and 2 above) for directly reengaged employees, however additional criteria was proposed to cover returning employees via an agency arrangement. This proposal specified;

3. Where employees have been dismissed through compulsory redundancy or granted voluntary redundancy they can be reengaged via an agency arrangement only after a period of 12 months, unless authorised by the Chief Executive or Executive Director of Change & Governance.

The above three points were drafted into a revision of the redundancy procedure upon which the Council consulted various stakeholders during 8th February – 14th February 2017.

Following stakeholder engagement and wider consultation, the draft redundancy procedure has been revised again (see section 10, page 10, appendix 1).

The latest revision ensures that the Council's procedure is not indirectly discriminatory. It removes the risk to the Council of any indirect age discrimination claims arising from the fact that younger employees would have the opportunity to return to the Council within a relatively short span of time, i.e. one month, after compulsory redundancy whereas employees aged 55 years and older (this by virtue of the fact that they are the only ones able to access their pensions), would have a twelve month period to wait. An indirectly discriminatory provision may be justified if it is a proportionate means of achieving a legitimate aim. In this case, the practice is difficult to justify as not all of those accessing their pensions will necessarily cause greater cost to the Council than those being made redundant at a younger age (e.g. the redundancy costs of the younger employee maybe greater than the older employee or there may be no actuarial pension strain for someone older who has accessed their pension and been made redundant).

For the above reason it is advised that no differential treatment is proposed for a returning employee accessing their pension (55 years and older) and those not accessing their pension. The latest revision of the procedure addresses this by specifying that all employees made compulsorily redundant (irrelevant of whether they access their pension or not) are made to wait a minimum of 12 months before being reengaged. There is flexibility built into this by means of an approved waiver (by either the Chief Executive or Executive Director of Change and Governance). This would need to be supported by a relevant business case to justify the waiver promoting equality principles. No waiver can reduce the minimum period of time below 1 month and 1 day as per the modifications order.

The resulting proposal now specifies that all reengagement activity, be that directly with the Council or through an agency relationship, whether VR or CR (with or without accessing pension) will require a minimum break in service of 12 months, unless an appropriate waiver is authorised.

4. Resource and Legal Considerations

The revised procedure has been reviewed by finance services and there is no financial impact as a result of the changes.

The legal issues arising are set out in section 3 above addressing specifically the issue of unlawful indirect discrimination on the grounds of age.

5. Citizen Impact

There is no direct impact on our citizens as a result of this procedure. The procedure is however, part of the employment framework that helps to ensure that resident of Walsall get the best possible services from council employees.

6. Performance and Risk Management issues

There are no identifiable risks associated with this implementation, indeed this procedure attempts to ensure that the Council remains compliant with the law and fulfils its statutory duty.

7. Equality Implications

An Equality Impact Assessment is attached (Appendix 2).

8. Consultation

The procedure has been consulted upon with senior managers across the Council between 8 February – 14th February 2017.

CMT reviewed the procedure on 23 February 2017 for subsequent Personnel Committee approval on 1 March 2017.

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Redundancy Procedure



Walsall Council

Version Control

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Owner	Human Resources		
Status	Final	Version	3.0
Effective from	01/03/2017	Approved on	TBC
Last updated	23/02/2017	Last updated by	HR Strategy & Planning
Purpose	The purpose of this procedure is to provide a clear, consistent framework for managing redundancy situations.		

This procedure links to:

- Redeployment Procedure
- Recruitment and Selection

This list is not exhaustive.

For advice and guidance with this document, or if you would like this information in another language or format please contact:

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1.0 Purpose

- 1.1 The purpose of this procedure is to provide a clear, consistent framework for managing redundancy situations. Walsall Council is committed to maintaining job security for its employees wherever practicable and will seek to avoid or reduce any negative impact of redundancy on its employees.

2.0 Scope of the procedure

- 2.1 This procedure applies to all Council employees with the exception of school based staff, Assistant Directors, Executive Directors and the Chief Executive.
- 2.2 This procedure does not apply to casual employees, agency workers or those on fixed term contracts where the initial contract is expiring at its predefined and known end date and is not due to a redundancy situation, contact HR for further guidance.

3.0 Roles and responsibilities

- 3.1 Human Resources will;

- Provide advice and guidance to managers and employees on the application of this procedure
- Provide redundancy payment information in accordance with this procedure
- Provide a registration process to access redeployment opportunities in accordance with this procedure
- Review and update this procedure in accordance with legislative changes, best practice and business needs as required

- 3.2 Executive Directors/Assistant Directors, Heads of Service will;

- Ensure that this procedure is applied consistently, fairly and objectively within their directorates / service areas
- Ensure that managers are aware of the correct procedures to follow and are supported accordingly to apply this procedure
- Ensure that any redundancies are approved in line with this procedure

- 3.3 Managers will;

- Ensure they understand and apply this procedure consistently, fairly and objectively and seek further advice from Human Resources where necessary
- Support all employees (reasonably and practicably) affected by a redundancy process

- Provide meaningful consultation and engage with employees and their representatives through the process ensuring timely and relevant feedback is provided
- Ensure that employees are treated in accordance with the Council's Equality and Diversity protocol
- Conduct an Equality Impact Assessment (EqIA) on redundancy or organisational change proposals

3.4 Employees will;

- Familiarise themselves with the redundancy procedure
- Actively and positively engage in the consultation process
- Actively engage with support mechanisms available, utilising the redeployment process to proactively search for alternative employment

4.0 When should this procedure be used?

- 4.1 This procedure should be used to manage all redundancy situations from individual cases to those arising from large scale organisational change. A genuine redundancy arises when employees are dismissed due to;
- The employer stopping or intending to stop the continuation of the business/service
 - The employer stopping or intending to stop the continuation of the business/service at the employees place of work or site
 - The employer reducing or stopping or intending to reduce or stop work of a particular kind conducted by the employee or conducted at the employee's place of work or site

The above may result in;

- 4.1.1 The identification of a specific post(s) being identified for deletion (e.g. an individual post being deleted resulting in the individual being made redundant, or for example, a team of 3 posts all being deleted resulting in 3 redundancies)
- 4.1.2 The need to reduce the number of employees fulfilling a specific post (e.g. a team of 6 being reduced to a team of 3 resulting in 3 redundancies)
- 4.1.3 The need to reorganise the structure / positions of a whole team or service or part of a team or service effecting some or all of the posts within the team or service and resulting in redundancies.

This procedure should be used to address each of the above situations.

- 4.2 The Council will seek to minimise or avoid redundancies where possible and should consider the following measures prior to making redundancy dismissals;
- natural wastage
 - restrictions on recruitment
 - retraining and seeking alternative work

- reduction of overtime/honoraria payments
- seeking volunteers for redundancy/early retirement in accordance with Council policies and procedures
- restricting the use of temporary staff/agency staff

This is not an exhaustive list.

5.0 Collective consultation and disclosure of information

- 5.1 The Council will begin collective consultation with appropriate Trade Union representatives prior to any dismissal taking effect, in line with current legislation, which is currently:

Number of employees proposed to be made redundant	Consultation timescale (days) before first dismissal take effect
20-99	30
100+	45

- 5.2 In cases where less than 20 employees are proposed to be made redundant the Council will aim to begin consultation at least 30 days prior to any dismissal taking effect, unless circumstances prevent this from being possible.
- 5.3 Collective consultation will take place with recognised Trade Unions normally through the Joint Negotiating Consultative Committees (JNCC's) and/or Employee Relations Forum (ERF). Collective consultation should commence prior to the start of any formal individual consultation with employees, they can however run alongside each other.
- 5.4 A business case explaining the reason for the proposed redundancies should be provided in writing to the recognised Trade Unions at the start of the consultation process. The following specific information should be disclosed within the business case;
- the reason for the proposed redundancy dismissals (the rationale)
 - the number(s) of proposed redundancies and details of the post(s)
 - the total number of employees potentially affected by the proposals
 - the proposed method of selecting those who may be made redundant
 - a proposed timeline for the consultation and redundancy process to take effect
 - information about how employees can contribute and feedback their views
 - the redundancy procedure including the method of calculating any redundancy payments due
 - the number of agency workers, where they are working and the type of work they are doing
 - In the case of reorganisations a current and proposed structure chart should be provided to identify the changes being proposed and the effects this will have.

- 5.5 The length of consultation is likely to vary depending upon the number of people involved and the complexity of the proposals. The consultation must be meaningful and in order to allow for and demonstrate this, consultation periods may vary in length.
- 5.6 An Equality Impact Assessment (EqIA) should be completed for all redundancy proposals/business case proposals. The EqIA needs to be started at the beginning of the proposal and updated throughout as necessary.

6.0 The redundancy process

6.1 Step 1 – Redundancy business case

Managers will complete a business case that details the redundancy proposal(s) including the reason for the proposal (refer to section 5.4). The completed business case should then be shared with Trade Unions and employees as set out below.

6.2 Step 2 – Collective consultation and employee consultation (placing employees ‘at risk’ of redundancy)

The redundancy business case should be shared in writing with recognised Trade Union officials (normally through ERF / JNCC’s) prior to individual consultation commencing with employees. The sharing of the business case with Trade Unions commences the collective consultation period.

In addition to collective consultation with Trade Unions, managers are required to consult on an individual basis with affected employees. This includes all employees who are potentially affected by the redundancy proposal, including those who are absent from work for any reason (e.g. employees who are on maternity/paternity/adoption leave, sickness absence, etc...).

Depending on the number of employees affected and the impact of the proposal, the choice of the initial consultation (1-to-1 or group meeting) will be decided by the manager. Either way, each individual employee must be invited in writing to the meeting and provided with a minimum of 5 working days advance notice reminding them of their right to representation. During this initial consultation meeting the proposals will be shared with the employee and they will be given a letter confirming that they are ‘at risk’ of redundancy.

At this meeting, managers should;

- Explain the reason for the redundancy proposal
- Issue each employee with the business case and their ‘at risk’ letter
- Confirm the reason why the employee is at risk of redundancy

- Explain the consultation process and the proposed timeline for consultation
- Explain to the employee what support is available

During the individual consultation period managers must hold at least one further individual consultation meeting with potentially affected employees. Consultation meetings must be recorded to evidence the discussions that took place. Employees can request additional consultation meetings and these should not reasonably be refused. Employees should be given at least 5 working days advance notice of their consultation meeting in writing and reminded of their right to representation. Employees who do not want to attend individual consultation meetings should confirm this in writing to their manager.

Where there are large groups of employees the individual consultation meetings can be held as a group meeting where this is mutually agreeable.

The purpose of consultation is to provide an opportunity to discuss and explore all available options with employees and their representatives. Consultation discussions should focus on the following;

- the proposed changes and why they are needed
- the process to be followed and associated timescales
- employees feeding back their views, suggestions and comments on proposals
- any alternative proposal options the employee want to put forward
- considering alternative options that will help to mitigate potential redundancies
- mitigating the effects of redundancy dismissals (e.g. voluntary redundancy)

6.3 Step 3 – Confirm redundancy proposal(s)

Once consultation has closed and following due consideration of all comments or suggestions received, including consideration of any voluntary redundancies, managers will finalise the redundancy proposal(s). The final business case for redundancy will then be shared with Trade Union officials and relevant employees and will confirm which post(s) are to be made redundant.

In some cases the redundancy situation may result in the need to select those employees who are to be made redundant in accordance with the process set out in the finalised business case.

Following the finalised business case employees who are no longer at risk or who need to go through a selection exercise will be informed in writing.

Prior to managers issuing formal notice of redundancy to any employee they must complete the 'Authorisation to make post redundant' form.

6.4 Step 4 – Issue formal notice of redundancy

Employees should be invited to this meeting in writing with a minimum of 5 working days advance notice and a reminder of their right to representation. The formal notice meeting should only be held once the 'Authorisation to make post redundant' form has been completed and approved. The manager must also formally register the employee with the redeployment team so that the employee can access redeployment opportunities as soon as they are issued with their formal notice.

At this meeting, managers will issue the employee with their formal notice of redundancy in writing and will discuss the following;

- confirm that the employee has been issued with their formal notice and what the last working day will be (notice periods will be issued in line with the employees terms and conditions)
- confirm the reason for the redundancy situation and explain to the employee what support is available during their notice period
- confirm that the employee can access redeployment opportunities with immediate effect and this will continue for the duration of their notice period
- managers will make themselves reasonably available to meet with employees during their notice period as requested to provide any additional support or advice as required, and arrange any support meetings as necessary to review progress / support the employee to find suitable alternative employment
- inform the employee of their estimated redundancy payment (if applicable) once this has been confirmed by the payroll and pensions team within HR
- the manager should inform the employee that they have the right to appeal against their redundancy and details of this should be included within the notice letter (refer to section 11).

6.7 Any alterations to the minimum timescales referred to within this procedure may be amended by agreement with individual employees; confirmation of any such agreements must be in writing.

7.0 Redeployment

7.1 Please refer to the Council's Redeployment Procedure.

7.2 Employees have a separate legal entitlement to be offered any suitable alternative work that is available if they are made redundant whilst on maternity leave, contact HR for further guidance.

8.0 Redundancy payments

- 8.1 Where employees are entitled to redundancy payments, the estimated figure should be provided to the employee in writing and can be obtained at the managers' request from the payroll and pensions team within HR.
- 8.2 Employees are entitled to the following redundancy payments after they have completed two years continuous local government (LG) service;

Employees age (years)	Redundancy entitlement (up to a maximum of 30 weeks' pay)
21 (or below)	half a weeks' pay per completed year of continuous LG service up to and including age 21
22 - 40	one weeks' pay per completed year of continuous LG service between the ages of 22 – 40
41 (or above)	one and a half weeks' pay per completed year of continuous LG service age 41 and above

- 8.3 Depending on the circumstances, the Council may waive its right to insist on employees working their notice and instead give a payment in lieu of notice.
- 8.4 Any offer of employment made by any local authority (or other 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.

9.0 Pension benefits

- 9.1 The pension regulations provide for the immediate payment of accrued benefits to pensionable employees who are aged 55 or over with the minimum period of two years (or in line with any amended regulations) pension scheme membership when employment is terminated:
- by reason of redundancy, or
 - in the interests of the efficient discharge of the employer's functions.

Contact HR Pensions team for further information.

10.0 Re-engagement following redundancy

- 10.1 Where an employee has requested voluntary redundancy and this has been accepted (irrelevant of whether they have accessed their pension or not) the employee cannot normally be re-employed directly by Walsall Council or through an agency arrangement, for a minimum period of 12 months after the termination date, unless in exceptional circumstances a waiver has been authorised.
- 10.2 Where an employee has been dismissed by the Council through compulsory redundancy (irrelevant of whether they have accessed their

pension or not) the employee cannot normally be directly re-employed by Walsall Council or through an agency arrangement for a minimum period of 12 months after the termination date, unless in exceptional circumstances a waiver has been authorised.

- 10.3 In exceptional circumstances and where a business case is authorised by the Chief Executive or the Executive Director, for Change and Governance a waiver to reduce the 12 month period can be approved. Any waiver cannot reduce the minimum time period below 1 month and 1 day following the termination date.
- 10.4 The above does not affect an employee's right to access and secure employment, after a period of 1 month 1 day, with other public sector employers covered by the modifications order (including schools).

11.0 Appeal process

- 11.1 Employees have the right to appeal against their redundancy dismissal and if they wish to exercise this right, they should submit their appeal in writing to the Head of HR within 10 working days of the date of their formal notice letter. The appeal should clearly state the grounds of the appeal which would normally be for one of the following reasons;
- against the selection for redundancy
 - against the implementation of the redundancy process followed
 - against the termination of employment on the grounds of redundancy
- 11.2 All appeals will be in accordance with the Council's Appeals Procedure. Employees have the right to representation at appeal hearings.

12.0 Employee support

- 12.1 The prospect of being made redundant can cause considerable anxiety. The handling of redundancies requires managers to not only comply with employment law and good practice but to be able to demonstrate tact, diplomacy and empathy when dealing with employees who are facing such situations.
- 12.2 The Council's Human Resources service will be available to support managers and employees through this process and are able to arrange other specific support mechanisms to optimise the chance of employees finding alternative employment.
- 12.3 Employees will be allowed a reasonable amount of time off work to look for alternative employment including time to attend interviews and they will also be supported to access appropriate training (where reasonable / relevant) to help them to find alternative work.

- 12.4 In addition the Council's confidential counselling service provider can offer free independent confidential advice to employees and their immediate families.

Appendix 2

Equality Impact Assessment (EqIA) for Policies, Procedures and Services

Proposal name	Redundancy Procedure		
Directorate	Change and Governance		
Service	HR Strategy and Planning Team		
Responsible Officer	Tracey Edwards		
EqIA Author	Tracey Edwards		
Proposal planning start	March 2017	Proposal start date (due or actual)	March 2017

1	What is the purpose of the proposal?	Yes / No	New / revision
	Policy	No	N/A
	Procedure	Yes	Revision
	Internal service	Yes	N/A
	External Service	No	N/A
	Other - give details		
2	What are the intended outcomes, reasons for change? (The business case)		
	<p>The purpose of the redundancy procedure is to support the council's managers to manage any potential redundancy situations in a fair, equitable and objective way whilst ensuring that employment legislation is adhered to; to promote positive employee relations through employee and trade union consultation and timely planning when implementing redundancies and to ensure that where there are no alternative options to redundancy, the Council will follow a fair dismissal procedure which keeps both affected employees and representatives informed.</p> <p>The Redundancy Procedure was approved by CMT and Appointments Board in 2014. The redundancy procedure has been revised to include a new section 10.0 Re-engagement following redundancy, following inconsistencies across directorates and service areas in relation to re- appointment through agency arrangements. Section 10.0 is the only change to the procedure, all other detail remains unchanged.</p> <p>The redundancy procedure is a key element of our employment practices and it is vital that it meets the needs of employees, managers and the general public. To provide a redundancy procedure which is free from any form of discrimination is a key aim of Human Resources (HR).</p>		



3	Who is the proposal potential likely to affect?		
	People in Walsall	Yes / No	Detail
	All	Y	Reduction in workforce numbers may potentially affect the people of Walsall, to whom these employees provide services
	Specific group/s		
	Council employees	Y	Potential redundancies for staff
	Other		
4	Evidence, engagement and consultation (including from area partnerships, where relevant)		
4.1	Type		Date
	Audience		
	Protected characteristics		
	Feedback		
	N/A		
	Type		Date
	Audience		
	Protected characteristics		
	Feedback		
	N/A		
4.2	Concise summary of evidence, engagement and consultation (including from area partnerships, where relevant)		
	<p>Consultation for the Redundancy Procedure took place as part of the launch in 2014. The changes that have been made to ensure consistent approach to re-engagement of employees following a redundancy situation, has been consulted upon with senior managers across the Council between 8 February 14th February 2017.</p> <p>As of 31 March 2016 the total number of Walsall Council employees (excluding Schools) were 3635. In total there were 160 (4.4%) employees who declared they had a disability, as defined by the Equality Act 2010, some of these may require communication in a different format.</p>		
5	How may the proposal affect each protected characteristic or group?		

The effect may be positive, negative or neutral.			
Characteristic	Effect	Reason	Action needed Y or N
Age	neutral	No impact foreseen	No
Disability		Potential impact on employees who require reasonable adjustments for communication and for those who do not understand the policy e.g. employees with learning disabilities.	Yes
Gender reassignment		No impact foreseen.	No
Marriage and civil partnership		No impact foreseen.	No
Pregnancy and maternity		Potential impact for people who are on maternity or paternity leave and are not updated about the policy.	Yes
Race		Potential impact on those employees whose first language is not English as they may not understand the policy.	Yes
Religion or belief		No impact foreseen.	No
Sex		No impact foreseen.	No
Sexual orientation		No impact foreseen.	No
Other (give detail)			
Further information			
6	Does your proposal link with other proposals to have a cumulative effect on particular equality groups? If yes, give details below.		(Delete one) Yes/ No
7	Which justifiable action does the evidence; engagement and consultation suggest you take? (Bold which one applies)		
A	No major change required		
B	Adjustments needed to remove barriers or to better promote equality		
C	Continue despite possible adverse impact		
D	Stop and rethink your proposal		

Action and monitoring plan

Action Date	Action	Responsibility	Outcome Date	Outcome
Day of launch	To ensure employee who are on maternity leave to be made aware of the updated Redundancy Procedure during KIT days.	Employees Line Manager	As and when required	Communication is maintained with employee to ensure equality
Day Of launch	The policy will be explained/made available in other languages on request for employees whose first language is not English.	Appropriate liaison as required with the councils Interpretation, Translation, Transcription and Easy Read service (ITTE)	As and when requested	Reasonable adjustments made to support employee and ensure equality
Day of launch	Alternative formats (audio and Easy Read) for disabled employees of the new policy will be made available on request.	Appropriate liaison as required with the councils Pearl Linguistics Service	As and when requested	Reasonable adjustments made to support employee and ensure equality

Update to EqIA

Date	Detail