

APPENDIX A to Severance Arrangements Report

EARLY TERMINATION OF EMPLOYMENT BY REASON OF REDUNDANCY OR EFFICIENCY OF THE SERVICE

REDUNDANCY PROCEDURE 2006

Once the possibility of a redundancy situation becomes highly likely, the manager responsible will inform the Human Resources Team Leader or equivalent and will follow the Redundancy Procedure.

It is the Council's intention where practicable to avoid the possibility of compulsory redundancy and will make every effort to do so. However, when it appears inevitable that employee levels need to be reduced, the following action will be taken:

1. Consultation

NB If the number of employees affected by the proposed changes are more than 20 there is a duty to consult with a trade union or employee representative. Consultation should be at least 30 days in advance of the first dismissal notice being issued.

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No matter the number of employees affected consultation will take place with the appropriate parties (collectively and individually) at the earliest opportunity and will include discussion on ways of:

- Avoiding dismissals
- Reducing the number of employees to be dismissed
- Mitigating the consequences of the dismissals

The principal objective of consultation is to enable matters of interest to both management and employees to be jointly examined and discussed. At any time during the consultation period, the proposals may be withdrawn or modified in response to changes in circumstances or the identification of an alternative course of action.

Consultation with the recognised Trade Union will take place at the earliest opportunity, irrespective of whether or not the employees to be made redundant are volunteers, members of the recognised trade union or qualify for redundancy pay.

For the purposes of consultation the Human Resources Team Leader will provide the following information to the recognised Trade Union.

- The reasons for the proposals
- The numbers and job titles of employees at risk when known
- The total number of current employees holding similar posts on the establishment which are affected by the proposed redundancies
- Confirmation that the method of selecting the employees will be in accordance with the Redundancy Policy

- The proposed method of carrying out the dismissal, including the time scales to apply, for that specific proposal.

Consultation with individuals who are affected by potential redundancy will take place as soon as they are identified. Human Resources will supply the following information:

- A summary of the background for the need for redundancies
- An explanation of the selection criteria
- The right of appeal against the decision to dismiss
- An explanation of the next steps
- An explanation of the statutory right to reasonable time off
- The redeployment process
- Availability of the Employee Assistance Programme.

2. Avoiding/Minimising Compulsory Redundancy

The following action will be taken, in consultation with the Trade Union.

- Work patterns will be reviewed, especially overtime working, and be changed where necessary.
- The employment of casual or contract employees with less than a year to the expected end date of the contract will be reviewed and terminated in cases where this would avoid the redundancy of an established post having to be declared.
- The employment of agency workers will be reviewed and terminated in cases where this would avoid redundancy of an established post having to be declared.
- Consideration will be given to reducing or suspending recruitment against vacancies that could be offered as redeployment opportunities. Where a vacancy is considered to be suitable alternative employment the potentially redundant employee will be offered the post in accordance with the Council's Redeployment Policy.
- Volunteers will be sought from work of the same or similar nature, thus offering opportunities for redeployment. In the case of volunteers, each individual case will be reviewed before deciding whether the application, in relation to continuing needs of the Council will be accepted. In any event no voluntary redundancy will be approved where this would result in the vacancy not being filled and an otherwise compulsory redundant employee given continued employment.
- Devolution of services to an appropriate entity, in which case employees will be transferred in accordance with TUPE legislation.

3. Selection of Posts for Redundancy

When redundancies are declared, the Council will select the specific posts to be declared redundant. This will be on the basis of business need and therefore employees in those posts that the Council considers no longer meet the business need, will be automatically selected for redundancy. However, if there is more than one person in the post the following criteria will be used:

1. Skills, qualifications and experience –
 - (a) Employees with the required skills, knowledge and experience will be subjected to a competitive interview and the employee(s) judged to have the least skills, qualifications and experience related to the post will be, subject to availability, redeployment opportunities or made redundant.
 - (b) Employees who are judged not to have the required skills; knowledge and experience will be offered, subject to availability, redeployment opportunities or made redundant.
2. Attendance Record – An employee who is currently the subject of a Formal Attendance or Contractual Review or who is under formal warning as a result of poor attendance will be considered to have a less acceptable attendance record than his/her colleagues.
3. Disciplinary – the following options under the Disciplinary Policy will be taken into account when selecting employees for redundancy:
 - a) An employee who has, at the time of the selection process, received a formal warning under the Council's Disciplinary Policy on the grounds of misconduct, which remains on his/her file, will be considered to have a less acceptable conduct record than his/her colleagues.
 - b) An employee who is, at the time of selection process, the subject of formal proceedings under the Council's Disciplinary Policy relating to his/her absence levels (which is currently not the subject of an appeal) will be considered to have a less acceptable record than his/her colleagues.
4. Capability – An employee who is, at the time of the selection process, the subject of formal proceedings under the Council's Capability Policy (which is currently not the subject of an appeal) or who is under a formal warning as a result of a lack of capability will be considered less capable than his/her colleagues.

Factors 2 to 4 will be taken into account when skills, knowledge and experience are equal and it is not possible to make a decision following interview. Employees with poor records in 2 to 4 will, subject to availability, be offered redeployment opportunities.

4. Right of appeal.

If an employee considers they have been unfairly selected for redundancy, or unfairly denied voluntary redundancy, they may submit a formal appeal in writing to the Human Resources Team Leader. A Members Appeals Panel supported by a member of CMB and advised by Human Resources will hear the appeal. Appeals should be made in writing to the Human Resources Team Leader within 10 working days of the date of the letter informing the employee of the decision to dismiss.

The appeal letter should include the reasons why the employee considers the Appeals Panel should reach an alternative decision to dismissal on the grounds of redundancy or why they should be allowed voluntary redundancy.

They will be asked to attend a hearing with the Appeals Panel, CMB representative and a Human Resources representative (accompanied by a colleague or Trade Union representative, if they wish). **The Appeals Panels decision will be final. If the Appeals Panel decide to overturn the decision to:**

- a) **Dismiss on the grounds of redundancy the Team Leader will discuss the options with the Human Resources Team Leader.**
- b) **Deny voluntary redundancy a report will be submitted to the relevant Committee**

5. Notice of Redundancy

Whenever practicable, employees who are to be made redundant will be given their full contractual period of notice in advance of the actual date on which their employment will end.

The statutory period is one week's notice for each completed year of service (from the continuous service date) up to a maximum of 12 weeks in total. Previous service with any public authority to which the Redundancy Payment Modification Order applies will count towards the length of service for notice periods (provided that all service has been continuous).

In circumstances where it is impracticable, to give the full contractual period of notice payment in-lieu will be offered for whatever shortfall of contractual entitlement to notice results. In this event the redundancy payment will be calculated as if the length of service had been to the date dismissal would have taken effect had continued employment for the full period of notice been possible.

Whilst consultation, arranged by the Human Resources Team Leader, may have commenced before individual notices are issued, the period of consultation may run concurrently with the periods of notice of the employees concerned.

6. Employee Entitlements

6.1 Time Off

In accordance with the provisions of the Employment Relations Act 1996, an employee given formal notice of a redundancy date will be entitled to reasonable time off during normal working hours, to obtain new employment. Time off will be granted on full pay and will be subject to the needs of the service.

An employee must ascertain from their manager that it is operationally viable to take time off to look for work or attend an interview prior to arranging any appointment. Any operational difficulties preventing an employee from taking reasonable time off to look for work should be referred to the Head of Human Resources.

6.2 Request to Leave Early

If an employee who has been issued with a notice of redundancy is successful in obtaining alternative employment within the period of notice, the Council will usually agree to an earlier termination of the contract. If this occurs, then the employee will be required to waive, in writing, their entitlement to the period of notice by which it is being reduced. Salary payment will then be to the earlier actual date of termination. The original amount of redundancy payment due will still apply unless the new employment is in Local Government or relevant service (see paragraph 6.3.1).

6.3 Employee Assistance Programme

The Council provides support and advice through the Employee Assistance Programme to employees who are leaving employment by reason of redundancy. It provides a telephone and face-to-face counselling and Legal Helpline service and can be used by employees:

- As an opportunity to voice new plans and ideas
- For support and help in thinking through the best way to tackling difficult situations
- To obtain legal advice or information

6.4 Outplacement Services

It is acknowledged that redundancy is clearly a very stressful experience for employees. North Wiltshire District Council will, where practicable make arrangements to ensure that outplacement services are available to employees to assist them to cope with redundancy.

6.5 Pre-retirement Courses

In some circumstances employees who may be made redundant may also be entitled to attend a Pre-Retirement Course in accordance with the Council's Retirement Policy.

7. PAYMENTS & BENEFITS

7.1 Redundancy Payment

The Employment Rights Act 1996 confers a right upon qualifying employees to receive a redundancy payment if they have been either: a) dismissed by their employer by reason of redundancy or b) they are eligible for a redundancy payment by reason of being laid off or kept on short-time. To qualify for this payment the employee must show that he has been 'continuously employed for not less than two years ending in the relevant date.' North Wiltshire District Council will make a redundancy payment to employees dismissed as redundant who have been continuously employed in Local Government and other relevant service by virtue of the Redundancy Payments (Continuity of Employment in

Local Government etc) (Modification) Order 1999 as amended for at least two years prior to the 'relevant date'.

The number of weeks pay to which an employee is entitled to will depend upon age and length of service as follows:

- Half a week's pay for each full year of service under age 22 years;
- One week's pay for each full year of service between the ages of 22 and 41 years; and
- One and a half weeks' pay for each full year of service over the age of 41 years.

With a maximum statutory entitlement of 30 weeks as set out under statutory provisions, see chart in Appendix A.

The maximum number of year's service, which can be counted, is 20 years, counted back from the relevant redundancy date. Year's service are counted backwards from the end of the week in which your employment terminates.

To use the chart at Annex A to calculate statutory entitlement find the age of the employee and the number of completed years service at the date of the redundancy and the point where these meet will give the entitlement, in weeks. Multiply the number of week's entitlement against the reckonable pay. This will give you an approximate amount of redundancy payment payable.

e.g. Employee aged 25 with 8 completed years of service earning £23,175 per annum at the time of redundancy would be entitled to:

5.5 weeks @ £445 p.w. i.e. £2,447.50

The Council will exercise its discretion by virtue of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, Regulation 5 'Power to increase statutory redundancy payments' to calculate redundancy based on an employee's actual weekly pay.

7.2 Discretionary Compensation for Redundancy

Discretionary ~~Lump Sum~~ Compensation

The Council reserves the right to make payments above the minimum level in respect of redundancy, through the appropriate Committee process. The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, allow the Council to grant a lump sum compensation payment to employees, subject to the following:-

- The employee has not been granted discretionary additional service under regulation 52 of the Local Government Pension Scheme 1997. ~~Therefore in view of the Council's decision to augment membership in accordance with regulation 52 for employees aged 50 and above who have been offered retirement in the efficiency of the service as an alternative to redundancy see paragraph 5 (c) of the Early Payment of Pensions Policy, will not be eligible to receive Discretionary Lump Sum compensation.~~

- The Council has decided to adopt a formula for calculating the discretionary payment for employees who are made redundant as follows:

The number of week's pay an employee is entitled to under the statutory redundancy payment scheme will be doubled multiplied by 4 subject to a maximum of 104 weeks., ~~that is the entitlement will be increased from:~~

~~Half a week's pay for service under the age of 22 years to one week's pay;
One week's pay for service between the ages of 22 and 41 years to two week's pay; and
One and a half weeks' pay for service over age 41 years to three weeks' pay.~~

~~e.g. Employee aged 25 with 8 completed years of service earning £23,175 per annum at the time of redundancy would be entitled to:~~

~~11 weeks @ £445 p.w. i.e. £4,895~~

~~Members will retain their right to pay a discretionary lump sum payment up to a maximum on 104 weeks in exceptional circumstances.~~

During the period leading up to the vesting of Wiltshire Council that is up to and including 31 March 2009 North Wiltshire District Council will allow employees to apply for either the application of:

a) Discretionary lump sum compensation based on a multiplier of four times the number of weeks pay to which entitled under the statutory redundancy payment scheme (but subject to a maximum of 104 weeks) and with the use of normal weekly pay;
or

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b) Augmentation of reckonable service graduated as follows:

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Less than 5 years reckonable service – no augmentation
5 up to 10 years of reckonable service – two years
10 up to 15 years of reckonable service – three years
15 up to 20 years of reckonable service – four years
20 years and over reckonable service – five years

Payment/benefits will be capped at the lower cost level to the Council. Members will exercise this discretion in all cases unless the following applies:

- (a) the employee has a poor attendance record and is the subject of a formal attendance process
- (b) the employee is the subject of a serious disciplinary sanction, such as a final written warning
- (c) the employee is the subject of a formal capability process

7.3 Repayment of Redundancy Payment

If re-engaged in relevant Local Government elsewhere (i.e. any employer referred to in the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999 as amended within four weeks of the redundancy termination date then the employee may forfeit the redundancy payment, if the offer of re-engagement is unreasonably refused.

7.4 Pension Provision on Redundancy

Redundant employees in contributory membership of the Local Government Superannuation Scheme who are aged 50 and over and have at least two years reckonable service at the date of termination, may commence to receive pension payments, and be entitled to the lump sum pension payment with effect from the day following their redundancy termination date. The Inland Revenue will be making amendments to this provision, by changing the age at which a pension can be commenced to 55, with effect from 1 April 2010, the policy will be reviewed at that time.

~~To receive pension payments the redundant employees must inform Human Resources of their wish to receive early payment of pension benefits. If this notification is not received it will be assumed that they do not wish to receive early payment of pension benefits. The Council will not augment pension payments for employees who are made redundant, therefore, early payment of pension will be subject to an actuarial reduction.~~

[Early payment of pension may be subject to an actuarial reduction.](#)

It should be noted that the above information relating to the payment of pension is in accordance with current legislation. Legislation is subject to change from time to time and this policy will be reviewed and amended in accordance with policy changes as and when they occur.

8. Repayment of Allowances and Benefits

Lease Cars

- Where employment is terminated on the grounds of redundancy, repayment in respect of the Lease Car termination penalty will not be required. All other charges relating to Lease Cars including the excess mileage will be the responsibility of the employee. The Finance Officer will be informed by Human Resources of the impending retirement who will discuss with the employee any payments that may need to be made.
- If an employee expresses a wish to purchase their lease car, a request should be submitted to Human Resources for consideration. Human Resources will seek approval from the relevant Strategic Manager. If the Strategic Manager approves the request, the leasing company will determine the value of the car.

Car loan

- In respect of a car loan the outstanding amount must be repaid, in full, when employment with the Council ceases. The outstanding amount can be deducted from the final salary, redundancy payment or other arrangement specified by the employee as per the terms and conditions of the Car Loan Scheme.

Other Expenses

- Where employment is terminated on the grounds of redundancy any outstanding payments in respect of expenses paid, e.g. relocation, training etc will not be required. Repayment of Training Loans will be required and where possible deducted from any final salary payment.

Annual Leave

- If an employee leaves employment with North Wiltshire District Council, they will be entitled to annual leave calculated to their last working day. Any annual leave taken or authorised before the date on which notice of termination of employment is served and which exceeds the entitlement at the date of termination of employment, will not be recovered.

Document History Early Termination of Employment by Reason of Redundancy or in the Efficiency of the Service - Redundancy Procedure 2006

Status Approved

Creation Date	Created By	Date of Review	Action
September 2006	Elaine Orchard	September 2007	Clarification of points following the issuing of the final regulations.
February 07	Elaine Orchard	February 2008	
February 07	Elaine Orchard	May 2008	Revised severance arrangements

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Committee Decisions This document has been approved by the following Committees

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25 Sept 2006	PLAC		1
13 February 07	LJCC	Minor revision no need to refer to PLAC	2
8 May 08	LJCC	Changes for discussion prior to taking to PLAC	3
3 June 08	PLAC	Revised severance arrangements	3

Revision History

Revision date	Summary of Changes	Revised by	Changes marked

28/09/06	Appeals Procedure Revised in accordance with committee decision on 25 September 2006	Elaine Orchard	
28/09/06	Discretionary Lump Sum inserted in accordance with committee decision on 25 September 2006	Elaine Orchard	
February 07	1 Additional first paragraph confirming rules on consultation. Additional statement in second paragraph confirming NWDC position on consultation	Elaine Orchard	
February 07	7.2 paragraph on augmentation amended to clarify the position against paragraph 7.4	Elaine Orchard	
June 08	7.2 discretionary compensation revised to mirror that of the proposed discretionary compensation to be applied in Wiltshire Council	Elaine Orchard	
June 08	7.4 minor amendment to take into account that augmented pension is now possible on redundancy	Elaine Orchard	