

## REDUNDANCY POLICY AND PROCEDURE

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## REDUNDANCY POLICY AND PROCEDURE

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## REDUNDANCY POLICY AND PROCEDURE

### 1 Policy Statement

- 1.1 Scottish Borders Council (the Council) aims, wherever possible, to provide security of employment for its employees.
- 1.2 However, it is recognised that there may be circumstances where changes are required due to organisational requirements, technological developments and modernisation programmes. This may necessitate the need for a reduction in numbers of posts, a change in job requirements or a change in job location and may consequently lead to redundancies.
- 1.3 In such circumstances the Council will consult with the Trades Unions and affected employees to seek to avoid redundancies and to minimise the adverse effect of redundancies through the redeployment of employees and the provisions contained in this Redundancy Procedure.

### 2 Equal Opportunities

- 2.1 The Council is committed to equal opportunities and strives to ensure that all employees are treated fairly on the grounds of race, religion or belief, sex, sexual orientation, marriage, civil partnership, gender reassignment/ Transgender identity, disability, age, pregnancy, maternity, trade union membership and activity.
- 2.2 Part-time employees and those working under fixed-term contracts, shall under no circumstances be singled out for selection on different criteria to those applied to comparable full-time staff.
- 2.3 All parties involved in the operation of this Redundancy Policy & Procedure shall ensure that the application of them is in line with the Council's Equality, Diversity and Human Rights Policy.

### 3 Scope

- 3.1 This policy and procedure applies to all employees of Scottish Borders Council except employees employed for a fixed term of three months or less, or engaged for a specific task which is not expected to last more than three months, unless in either case the job actually lasts for more than three months.
- 3.2 The procedure applies regardless of how long employees have worked for Scottish Borders Council or for how many hours a week they are employed.
- 3.3 This procedure does not apply to independent contractors or freelance agents.
- 3.4 An overview of the procedure can be seen in the Flowchart – [Appendix 1](#)

### 4 Definitions of redundancy

Redundancy has two different meanings for the purposes of UK employment law. One is to establish the reason for dismissal and entitlement to redundancy payments, and the other is for the right to collective trades union consultation.

#### 4.1 Dismissal on the grounds of redundancy

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

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

For entitlement to redundancy payments, staff need to have continuous service of at least 2 years. For further details, see [Appendix 6](#)

#### 4.2 Right to trade union consultation

A collective redundancy is where it is proposed that 20 or more employees are made redundant over 90 days or less.

In collective redundancies there is a right for the relevant trades unions to be consulted and in this circumstance the law defines redundancy as:

- dismissal for a reason not related to the individual concerned or for a number of reasons all of which are not so related.

This definition might include, for example, a situation where dismissals are not related to the conduct or capability of the individual employees but are part of a reorganisation where there is no reduction in the overall numbers employed because new recruits are taken on.

In such circumstances, there is also a legal requirement to notify the Redundancy Payments Service (RPS) who act on behalf of the Secretary of State for Business, Innovation and Skills.

It is important to ensure this notification is carried out as there is a financial penalty for non-compliance. See [Appendix 2](#) for more detail.

### 5 Consultation

The purpose of consultation is to provide as early an opportunity as practicable for all concerned to share the problem and explore any options that may exist to mitigate the proposed redundancies and if the redundancies are inevitable, any ways of minimising hardship.

The Council will consult with employees and with the recognised Trades Union representatives fully as soon as is practicable.

## 5.1 Statutory consultation

5.1.1 There is a statutory duty to consult Trade Union representatives in all collective redundancy situations (i.e. 20 or more redundancies) and consultation must be undertaken with a view to reaching agreement. This duty exists irrespective of whether it is envisaged that the redundancies will be voluntary or compulsory.

The following information will be provided, in writing, to the Trade Union representatives

- the reasons for redundancy
- the number and categories of employees involved
- the number of employees in each category
- the plan to select employees for redundancy
- how it is planned the redundancies will be carried out
- how redundancy payments will be calculated
- the number of agency workers working for the Council, which part of the Council they are working in and the type of work they are carrying out.

5.1.2 Consultation will normally be expected to cover ways of avoiding the redundancies, reducing their number or of mitigating their effects. For example, consultation may cover issues such as alternative work patterns, job share proposals etc. The consultative process will continue until the issues have been aired and both managers and Trades Union representatives have had a reasonable amount of time to comment on information provided and the proposals or counter-proposals which have been made.

5.1.3 Consultation will include consideration of the following options:

- Imposing an immediate ban on further recruitment of new recruits other than where this is essential and considering redeployment and/or retraining of displaced employees.
- Restricting the use of agency workers, wherever appropriate.
- Reducing the amount of overtime working, where applicable.
- Implementing temporary lay-offs, short-term working or job sharing, where appropriate.
- Inviting applications for consideration for early retirement and/or voluntary redundancy from either within the affected areas or an extended area.

## 5.2 Consultation where there are fewer than 20 employees involved in a redundancy situation

5.2.1 In this situation the statutory collective consultation rules do not apply but it is nevertheless important to ensure that individual employment rights are observed.

Employees have a right to be consulted on an individual basis if their jobs are being considered for redundancy.

The Trades Unions should also be consulted with before staff are made aware of the potential redundancies. Contact your HR Business Partner regarding this.

5.2.2 There are dismissal procedures which apply where a redundancy dismissal is being contemplated. Please see the later section on dismissals.

### **5.3 Timing and length of consultation**

5.3.1 The consultation process will begin as soon as practicable and be completed before any redundancy notices are issued.

5.3.2 In addition, consultation must begin at least:

- thirty days before the first of the dismissals takes effect (that is, when the employment contract is terminated) in a case where between 20 and 99 redundancy dismissals are proposed at one location within a period of ninety days or less;
- forty five days before the first of the dismissals takes effect in the case where 100 or more redundancy dismissals are proposed at one location within a period of ninety days or less.

5.3.3 When dealing with a redundancy situation involving fewer than 20 employees there is no statutory minimum consultation period, so consultation will begin as soon as practicable.

5.3.4 There may be special circumstances where it is not reasonably practicable for the Council to meet fully the requirements for minimum consultation periods or disclosure of information. These will be seen as the exception and in such circumstances we will take all reasonable action toward meeting the requirements.

5.3.5 There is no defined time-limit within which consultations must be completed. This will always depend on the circumstances of each situation. Whilst consultation must start at least 30 or 45 days before the redundancy notices take effect, it is not necessary that consultation should last for all of that time. Further, where consultation has not been completed by the end of the 30 or 45 day period, consultation will continue beyond the 30 or 45 day period.

5.3.6 When dealing with individual redundancy situations, a month for a redundancy consultation process may be regarded as reasonable to allow the 3 stage process to be carried out (see later section on dismissal process). Unless there are exceptional circumstances it would be hard to envisage the process taking place in under two weeks.

5.3.7 Redundancy notices will only be issued when the consultation has been completed. In other words, when consultation has either resulted in agreement with the Trade Union Representatives, or has otherwise reached its conclusion. For collective redundancies, if consultation has been completed within the 30 or 45 day period, notices may be issued at that point.

## 6 Selection of posts and employees for redundancy

- 6.1 Normally, redundancy will be restricted to particular departments, sections, or specific grades or category of posts affected by the specific reason applicable. However, depending on the circumstances, redundancies may be considered across a wider area.

Where they fall into the definition of collective redundancies (see [section 4.2](#)) they will be the subject of consultation with the Trade Union representatives. Where it is necessary to select individual employees for potential dismissal from a pool of redundant posts, consideration will be given to establishing selection criteria. It will be ensured that the pool of employees to whom the selection criteria are applied is fairly defined.

- 6.1.1 Where it is proposed to make a unique post with only one post-holder redundant there will obviously be no requirement for selection criteria to be applied, for example where it is proposed that the one existing post of Finance manager in a particular location is no longer required. If however there were to be three Finance managers and it was being proposed that only two were required in future, then there would be a need to apply selection criteria if all three posts were occupied in order to determine which of the three individuals would stay and which would be at risk of redundancy.

### 6.2 Voluntary severance/Early retirement

In seeking to mitigate against compulsory redundancies, the Council may call for volunteers for voluntary severance and/or early retirement from the area affected. It will define the groups/grades of employee who may express interest. The Council will advise any employees who express interest what they would receive if they were granted voluntary severance or early retirement. A voluntary severance payment is not the same as a redundancy payment.

Where sufficient volunteers are not forthcoming, or are not anticipated, consideration may be given to inviting applications from outside the immediate area affected.

The decision to call for volunteers and which groups/ grades of employee may apply will be made by the Council's Strategic Leadership Team.

### 6.3 Selection criteria for Voluntary severance/. Early retirement

- 6.3.1 Management will consider applications for either early retirement or voluntary severance based on the requirements of the Council to retain the skills, knowledge and experience required for the delivery of high quality Council services. The closing date for such applications for either early retirement or voluntary severance will normally be 14 days from the issue of a formal notice of invitation. Management will decide which applications to recommend based on fair and objective criteria.

Recommendations will then be considered by the Strategic Leadership Team. The final decision to approve applications is made by Council.

- 6.3.2 Volunteers will only normally be released if their own job is identified at being at risk and there is no potential suitable alternative job available or if, by their leaving, the

volunteer's post could be taken by someone who would otherwise be made redundant on a compulsory basis.

#### **6.4 Selection criteria for compulsory redundancies**

6.4.1 The selection criteria will be developed in consultation with the Trades Unions.

The criteria may include:

- skills, qualifications and experience
- standard of work performance and aptitude
- attendance or disciplinary records.

6.4.2 Care will be taken to ensure that the selection criteria will be fair and consistent and will neither be directly nor indirectly discriminatory on grounds of race, colour, ethnic or national origin, religion or belief, sex, gender reassignment/ transgender identity, sexual orientation, marital status, disability, age, or trade union membership and activity. Attendance records will exclude absence on maternity, paternity or adoption grounds.

6.4.3 Where an employee in the pool for selection is disabled, it will be ensured that he/she is not put at any disadvantage on account of the application of the selection criteria and the council will accordingly make reasonable adjustments to the selection procedure to remove any disadvantage that the disabled employee would otherwise have.

#### **6.5 Unfair selection**

6.5.1 An employee dismissed for reasons of redundancy will be found to have been unfairly dismissed if he or she was unfairly selected for redundancy.

6.5.2 In selecting an employee for dismissal for reasons of redundancy no account must be taken of their involvement in:-

- trade union activities, in respect of membership or non-membership of a trade union or in respect of trade union recognition or derecognition
- duties as an employee representative or candidate for election for purposes of consultation on redundancies or business transfers
- an election of an employee representative for collective redundancy purposes
- action on health and safety grounds as a designated or recognised health and safety representative, or as an employee in particular circumstances
- the duties of an occupational pension scheme trustee, either actual or proposed
- taking lawfully organised industrial action in the previous twelve weeks or less (or more than twelve weeks in certain circumstances)
- asserting a statutory employment right
- maternity-related grounds
- a reason relating to rights under the Maternity and Parental Leave etc Regulations
- Whistleblowing

- a reason relating to the Part-time Workers (Prevention of Less Favourable Treatment) Regulations
- a reason relating to the Fixed-term Workers (Prevention of Less Favourable Treatment) Regulations
- a reason relating to the Tax Credits Act 2002
- exercising or seeking to exercise the right to be accompanied at a disciplinary or grievance hearing
- requesting flexible working arrangements.
- Disability related grounds

6.5.3 A claim for unfair selection may also arise where the employer has failed to undertake a reasonable search for alternative work throughout the organisation.

## **7 Retention & redeployment**

7.1 The Council is committed to retaining employees and all reasonable effort will be made to secure suitable alternative employment within the Council.

7.1.2 Please refer to the Retention and Redeployment Policy & Procedure contained in the HR Policies Procedures and Guidelines on the [Intranet](#) and on the Employee Policies and Procedures page of the [Council Website](#). This explains the right to priority interviews for employees under direct threat of compulsory redundancy who meet the essential criteria of a new post.

### **7.2 Suitable alternative work**

7.2.1 Suitable alternative employment is regarded as posts arising of the same or similar grade (both higher and lower) to that already held by the employee and shall include posts in alternative employee categories, of a commensurate salary and status including posts occurring in alternative Council locations where these locations are considered to be reasonable in respect of the employee.

7.2.3 Some suggestions for defining 'suitable alternative':

A 'suitable alternative' post is one which is similar to the employee's current post, taking into account:

- the similarity of responsibilities between the current post and the alternative post
- the employee's training, qualifications, skills, experience and capabilities and their suitability for the alternative post
- the grade of the current post
- the hours of work
- travel requirements of the job
- travel between home and base
- personal circumstances.

7.2.4 Although the aim is for a 'suitable alternative' post to be similar to the current post, there is no guarantee that an exact match will be available.

7.2.5 A suitable alternative will sometimes include a post at a slightly higher grade but does include lower graded posts. In considering options, the preferences and aspirations of

employees will also be taken into consideration. After consultation, the individual will be expected to accept an offer of a post that is considered to be a suitable alternative.

- 7.2.6 In redundancy situations employees must be aware that if they unreasonably refuse an offer which is a suitable alternative, they will lose any entitlement to redundancy pay.
- 7.2.7 Unreasonable refusal may arise where the differences between the new and old jobs are negligible or where the employee assumes rather than investigates the changes that a new job might involve in, for example, travelling time or working conditions. Refusal may be reasonable if the new job would cause domestic upheaval, for example if there was a considerable change in working hours or a need to move house.
- 7.2.8 In deciding whether to accept an offer of alternative employment, whatever the circumstances, it will be sensible for employees to bear in mind the availability of other employment should they refuse the offer. It may mean that the alternative to accepting a new position on different terms and conditions is dismissal if no better suited alternatives are available within the redeployment period.

### **7.3 Right to trial periods**

- 7.3.1 An employee who is under notice of compulsory redundancy has a statutory right to a trial period of four weeks in a suitable alternative job where the provisions of the new contract differ from the original contract, whether in terms of grade or the nature or location of the role. The trial period begins when the previous contract has ended and ends four weeks after the date on which the employee starts work under the new contract.
- 7.3.2 The purpose of the trial period is to give the employee and a manager a chance to test whether the new job is suitable without necessarily losing the right to a redundancy payment. The four-week trial period can be extended for short-term, essential retraining purposes by an agreement which is in writing, specifies the date on which the trial period ends and sets out the employee's terms and conditions after it ends.
- 7.3.3 If the employee works beyond the end of the four week period or the jointly agreed extended period, any redundancy entitlement will be lost because the employee will be deemed to have accepted the new employment. This will be included in the written communication to the employee when the alternative job offer is made.
- 7.3.4 The trial period will also be used to assess the employee's suitability. Should the new line manager wish to end the new contract within the four weeks for a reason connected with the new job, the employee will preserve the right to a redundancy payment under the old contract. If the dismissal is due to a reason unconnected with redundancy, the employee may lose that entitlement.

### **7.4 Right to time off to look for new employment**

- 7.4.1 Any employee who has been given notice of redundancy will be granted reasonable time off work with pay during their notice period, in order to look for new employment or to make arrangements for training for future employment. This will include time off to

attend job interviews or visit an employment agency or a job centre in connection with new employment.

- 7.4.2 An employee taking such time off will not be required to make up for the time taken by working additional hours at another time.

## 8 Dismissal process

### 8.1 Dismissal where no selection criteria apply

- 8.1.1 Before any dismissal for redundancy takes place there must be a **minimum** of three main steps which are summarised as follows:

#### Step 1

The employee must be given written notification of the reason redundancy is being contemplated and will be invited to a meeting to discuss it. The meeting must not take place unless the employee has been informed of the reason stated for the redundancy.

The employee must be given a reasonable opportunity to consider their response to the information before the meeting takes place. They must take all reasonable steps to attend the meeting. The employee has the right to be accompanied to this meeting by a Trade Union representative or work colleague, carrying out the role of 'companion'.

If further consultation meetings would be helpful these should be arranged.

#### Step 2

The relevant manager must hold a further meeting with the employee to advise them of the decision. . A representative from HR may assist. The employee has the right to be accompanied to this meeting by a Trade Union representative or work colleague, carrying out the role of 'companion'.

Following the meeting, the employee will be given written notification of any decision to dismiss by reason of redundancy and also be given a right of appeal if they are not satisfied with the decision.

#### Step 3

An appeal meeting will be held if the employee wishes to appeal. Again the employee has the right to be accompanied to this meeting by a Trade Union representative or work colleague.

The employee must take all reasonable steps to attend this appeal meeting which as it is against dismissal will be heard by the Staffing Appeals Committee.

The appeal meeting need not take place before the dismissal comes into effect, and could therefore take place after notice of redundancy dismissal has been given. After the appeal meeting the employee will be informed of the final decision.

The Staffing Appeal process is as described in [Appendix 5](#)

## 8.2 Dismissals where selection criteria apply

8.2.1 The 3 step process described above is more likely to be used where there are no selection criteria to apply as the introduction of selection criteria will necessitate a longer process. Where selection criteria are applied it is likely that the process would be extended as follows: -

### Step 1

The employee must be given written notification of the reason redundancy is being contemplated and will be invited to a meeting to discuss it. The meeting must not take place unless the employee has been informed of the reason stated for the redundancy.

The employee must be given a reasonable opportunity to consider their response to the information before the meeting takes place. They must take all reasonable steps to attend the meeting.

### Step 2

The relevant manager must hold a meeting with the employee before any action is taken i.e. before any notice of dismissal is given and while the redundancy is still under consultation. A representative from HR may assist. The employee has the right to be accompanied to this meeting by a Trade Union representative or work colleague. During this meeting the employee will also be advised of the intention to apply the agreed selection criteria and receive details of that criteria. They will be given a timescale in which it is intended to apply the criteria

### Step 3

Once the selection criteria have been applied a further meeting will be convened with the individual to allow them to be told of the results of the application of the selection criteria. they will be told- whether or not they still remain at risk of redundancy. They will not be entitled to know the outcome of other employees.

### Step 4

Following the meeting, the employee will be given written notification of the results of the application of the selection criteria and, if the employee still remains at risk of redundancy, will be given the right to appeal to a more senior level of management.

### Step 5

An appeal to a more senior level of management will be set up if requested. See [Appendix 4](#) for the Conduct of Appeal. The outcome of the appeal to management will either be a removal of the risk status or a decision to dismiss by reason of redundancy.

Any decision will be given in writing and if there is a decision to dismiss, a further right of appeal will be given. This second appeal will be heard by the Staffing Appeals Committee because it would be against a decision to dismiss.

## Step 6

An appeal meeting will be held if the employee wishes to appeal. Again the employee has the right to be accompanied to this meeting by a Trade Union representative or work colleague. The employee must take all reasonable steps to attend this appeal meeting.

The appeal meeting need not take place before the dismissal comes into effect, and could therefore take place after notice of redundancy dismissal has been given. After the appeal meeting the employee will be informed of the final decision.

8.2.2 The Staffing Appeal process is as described in [Appendix 5](#)

## 9 Redundancy notice

9.1 A member of staff dismissed on the grounds of redundancy is entitled to receive contractual or statutory notice whichever is the greater. In practice this will mean contractual notice. For information on notice periods see [Appendix 3](#)

9.2 Redundancy dismissal takes effect at the end of the notice period. Therefore, in collective redundancy situations the time from the beginning of the consultation to when the employee is actually made redundant (if appropriate) will be at least 30 or 45 days, but in some cases it could be longer where the combination of the consultation and the notice period exceeds the period.

9.3 This timetable can be shortened where it is agreed that an employee can leave early or they are granted voluntary redundancy. Individual employees may seek earlier release dates. Where this occurs, the Council will endeavour to meet these requests under certain circumstances, especially where opportunities exist for alternative employment outwith the Council.

9.4 However termination dates will be determined by the operational requirements of the department and notified to the individual.

9.5 Where an employee is a member of the Council's Superannuation Scheme or Pension Scheme, they will also be given details of any benefits applicable.

## 10 Counselling

10.1 It is recognised that a redundancy situation can be a traumatic experience for employees, especially for those who have worked for many years in a stable environment. This applies to some employees whether or not they are the ones under direct threat.

10.2 If required, counselling is available through the Council's Employee Assistance Programme. This service is available 24 hours a day every day of the year and provides telephone counselling. The Programme is provided by Vivup and can be accessed by calling 0800 023 9324 (free from any standard UK landline or mobile phone).

10.3 Further sources of support are detailed in the [Staff Wellbeing Handbook](#).

## 11 Other assistance

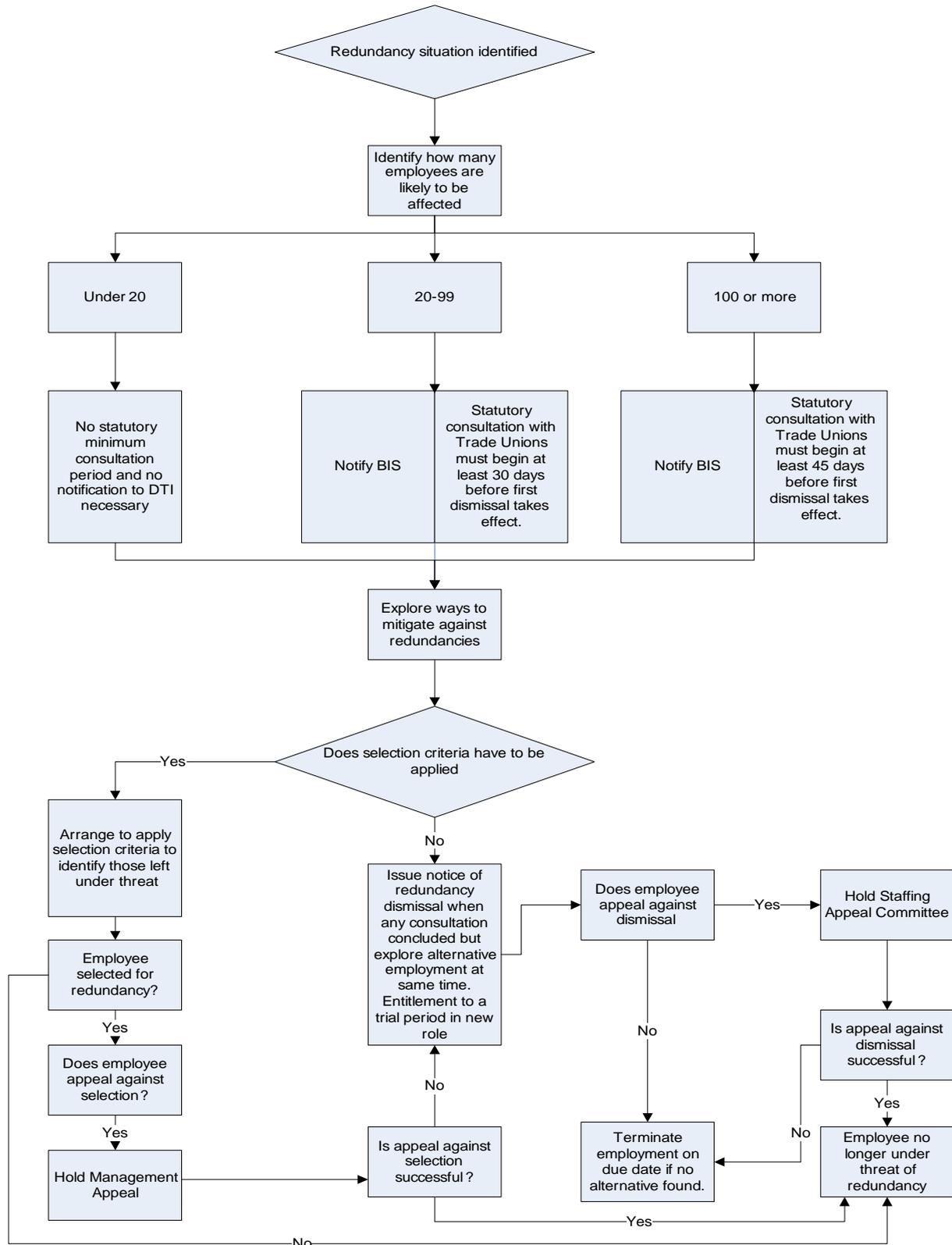
### Disturbance allowance

- 11.1 Employees who have to change location as a result of redundancy redeployment and incur additional expenses travelling to work, may be entitled to claim excess travelling expenses for up to one year. Details are contained in the Disturbance Policy which is available on the [Intranet](#) and on the [Employee Page](#) of the Council website..
- 11.2 For larger scale redundancy programmes, additional assistance may be offered which could include help with direct access to:-
- ◆ Independent Financial advisors
  - ◆ Job Centre
  - ◆ Tax Advisors
  - ◆ Outplacement services

## 12 Review

- 12.1 The outcomes of this Policy will be reviewed at least every two years. If any trends emerge these will be analysed and appropriate steps taken, potentially including a full review of the policy. Changes to this document and related procedures are the responsibility of the Director People Performance & Change.
- 12.2 Additionally, as a minimum an impact assessment of the policy will be carried out every two years in accordance with the Council's HR Policy Review programme or as required by legislative requirements in order that the Policy remains relevant and fit for purpose.

**APPENDIX 1 : REDUNDANCY PROCEDURE FLOWCHART**



**Appendix 1**

**Appendix 2****NOTIFICATION TO THE SECRETARY OF STATE FOR BUSINESS, INNOVATION AND SKILLS  
VIA THE REDUNDANCY PAYMENTS SERVICE**

An employer who proposes to dismiss twenty or more employees as redundant at one establishment within a period of ninety days or less has a statutory duty to notify the Secretary of State for Business, Innovation and Skills. This is so that government departments and agencies and the Jobcentre Plus Rapid Response Service can be alerted and prepared to take any appropriate measures to assist or retrain the employees in question.

**Is there any minimum period for notification?**

A notification must be made a specified minimum time before the first dismissal takes effect. In addition, notification must be given before giving notice to terminate an employee's contract. The date of notification is the date on which it is received by the Department.

The minimum times are:

- if between 20-99 employees may be dismissed as redundant at one establishment within a period of ninety days or less- at least thirty days and in any event, before giving notice to terminate an employee's contract;
- if 100 or more employees may be dismissed as redundant at one establishment within a period of ninety days or less- at least forty five days and in any event, before giving notice to terminate an employee's contract.

When dealing with a redundancy situation involving fewer than 20 employees within a period of ninety days or less, there is no obligation to notify the Secretary of State. However in borderline cases, particularly if the numbers involved are uncertain, it may be wise to do so.

These periods are the same as the minimum periods permitted for consultation with Trade Union representatives (see next section).

An employer who has already notified one group of proposed redundancy dismissals and later finds it necessary to make a further group redundant does not have to add the numbers of employees together to calculate the minimum period for either group.

**What information must be disclosed in the notification?**

The Secretary of State requires information in writing about the employer's proposals. Notification must be either by letter or by form HR1, which is available online.

<https://www.gov.uk/government/publications/redundancy-payments-form-hr1-advance-notification-of-redundancies>

The information required is similar to that which the employer must disclose to the Trades Union representatives for consultation. In addition, the notification must state when and with whom such consultation began.

The notification should be sent by post or delivered by hand to the office indicated on form HR1. If the proposals change significantly after the notification has been given - for example, if the numbers to be dismissed increase by twenty or more or if the dismissal dates are to be brought forward or delayed - the Secretary of State should be informed. Employers must give or send a

copy of the notification to the representatives with whom they are required to consult about the proposed redundancies. The Secretary of State has powers to obtain further information if necessary. When notification has been received in the form required, a formal acknowledgement will be sent to the employer.

### **Special circumstances**

There may be special circumstances where it is not reasonably practicable to meet fully the requirements for minimum notification periods. In such circumstances, all reasonably practicable steps toward meeting the requirements must be made and an explanation must be given as to why they cannot be met in full.

### **Penalty for non-compliance**

If an employer fails to give the required notification, the Secretary of State may institute legal proceedings that could lead, on summary conviction, to a fine of £5,000.

**Appendix 3**

**NOTICE PERIODS**

Employees receive the greater of contractual notice periods or statutory notice periods.

In practice this means contractual notice.

The Council's contractual notice periods are as follows;

<b>GRADE</b>	<b>NOTICE ENTITLEMENT</b>
SJC	1 week for each continuous year of service with a minimum of 4 weeks and maximum of 12 weeks
Chief Officers	12 weeks
Teachers	1 week for each continuous year of service with a minimum of 4 weeks and maximum of 12 weeks. For senior promoted posts a minimum of 8 weeks applies.

## CONDUCT OF APPEAL BY MANAGEMENT

### Introduction

1. The Chairperson should introduce those present, and explain that the purpose of the Hearing is to consider an appeal against selection for redundancy and outline how the hearing will be conducted.

### Statement of Case by Management

2. The manager(s) shall state
- the grounds for the redundancy situation
  - the method of selection for redundancy, if applicable
  - the process followed in respect of the employee

This may include calling witnesses if appropriate and disclosing any witness statements and the contents of any other records and documents.

### Questions on Management Case

3. The employee (or representative) is given the opportunity to ask questions to clarify the statement of case, including questioning any witnesses.
4. The manager shall be given a further opportunity to question any witnesses on issues raised during the employee's (or representative's) questioning.
5. The Chairperson and their advisers are given the opportunity to ask questions at any stage to clarify the case.

### Statement of Case by Employee (or Representative)

6. The employee (or representative) is given the opportunity to state his or her case and present evidence. This may include calling witnesses if appropriate and ensuring that those present are aware of any witness statements and the contents of any other records and documents.

### Questions on Employee Case

7. The manager(s) is given an opportunity to ask questions to clarify the statement of case, including questioning any witnesses.
8. The employee (or representative) shall be given a further opportunity to question any witnesses on issues raised during the employer's (or representative's) questioning.
9. The Chairperson and their advisers are given the opportunity to ask questions at any stage to clarify the case.

### Further Questioning and Clarification

10. The Chairperson and any officers advising them may use this stage to clarify any issues and to check that what has been said is understood. Where either party is asked to clarify any point, the other party must also be given the opportunity to comment.

### **Summing - up**

11. The manager(s) shall have the opportunity to sum-up if they so wish, introducing no new material.

12. The employee (or representative) shall have the opportunity to sum-up if they so wish, introducing no new material.

### **Adjournment**

13. Any party may request an adjournment at any time during the hearing. It is essential however, that the Chairperson calls an adjournment to allow full consideration of all the matters raised before a decision is taken regarding whether or not the decision to select for redundancy was fair and reasonable.

14. The Chairperson, together with any advisers shall deliberate in private, only recalling the manager(s) or the employee (or representative) to clarify points of uncertainty on the evidence already given. If recall is necessary both parties are to return.

15. Where the facts are unclear the Chairperson may require further information to be provided and in these circumstances the Hearing may need to be reconvened at a later date to hear and consider the additional information. Any additional written information will be copied by the Chairperson to all parties. The hearing must be reconvened as soon as possible.

16. If practicable, the Chairperson shall recall the parties and announce the decision at the conclusion of the meeting. The decision will be one of the following:

- that the appeal is upheld (the redundancy selection is overturned)
- that the appeal is not upheld (the selection for redundancy stands)
- that the appeal is upheld in part (Chairperson to substitute any appropriate alternative action)

17. In any event the Chairperson shall confirm the decision in writing to the employee (or representative) within ten working days of the Hearing.

## CONDUCT OF APPEAL BY COMMITTEE

### Introduction

1. The Chairperson should introduce those present, and explain that the purpose of the Hearing is to consider an appeal against redundancy dismissal and outline how the hearing will be conducted.

### Statement of Case by Management

2. The manager(s) shall state
- ◆ the grounds for the redundancy situation
  - ◆ any method of selection for redundancy, if applicable
  - ◆ the process followed in respect of the employee

This may include calling witnesses if appropriate and disclosing any witness statements and the contents of any other records and documents.

### Questions on Management Case

3. The employee (or representative) is given the opportunity to ask questions to clarify the statement of case, including questioning any witnesses.
4. The manager shall be given a further opportunity to question any witnesses on issues raised during the employee's (or representative's) questioning.
5. The Appeals Committee and their advisers are given the opportunity to ask questions at any stage to clarify the case.

### Statement of Case by Employee (or Representative)

6. The employee (or representative) is given the opportunity to state his or her case and present evidence. This may include calling witnesses if appropriate and ensuring that those present are aware of any witness statements and the contents of any other records and documents.

### Questions on Employee Case

7. The manager(s) is given an opportunity to ask questions to clarify the statement of case, including questioning any witnesses.
8. The employee (or representative) shall be given a further opportunity to question any witnesses on issues raised during the employer's (or representative's) questioning.
9. The Appeals Committee and their advisers are given the opportunity to ask questions at any stage to clarify the case.

### Further Questioning and Clarification

10. The Appeals Committee and their advisers may use this stage to clarify any issues and to check that what has been said is understood. Where either party is asked to clarify any point, the other party must also be given the opportunity to comment.

### Summing - up

11. The manager(s) shall have the opportunity to sum-up if they so wish, introducing no new material.

12. The employee (or representative) shall have the opportunity to sum-up if they so wish, introducing no new material.

### **Adjournment**

13. Any party may request an adjournment at any time during the hearing. It is essential however, that the Chairperson calls an adjournment to allow full consideration of all the matters raised before a decision is taken regarding whether or not the decision to dismiss for reason of redundancy was fair and reasonable.

14. The Appeals Committee, together with any advisers shall deliberate in private, only recalling the manager(s) or the employee (or representative) to clarify points of uncertainty on the evidence already given. If recall is necessary both parties are to return.

15. Where the facts are unclear the Appeals Committee may require further information to be provided and in these circumstances the Hearing may need to be reconvened at a later date to hear and consider the additional information. Any additional written information will be copied by the Chairperson to all parties. The hearing must be reconvened as soon as possible.

16. If practicable, the Chairperson shall recall the parties and announce the decision at the conclusion of the meeting. The decision will be one of the following:

- that the appeal is upheld (the redundancy dismissal is overturned)
- that the appeal is not upheld (the redundancy dismissal stands)
- that the appeal is upheld in part (Chairperson to substitute any appropriate alternative action)

17. In any event the Clerk to the Committee shall confirm the decision in writing to the employee (or representative) within ten working days of the Hearing.



## REDUNDANCY PAYMENTS

Employees under direct threat of redundancy or seeking to volunteer will be given written details of their redundancy pay entitlement.

An employee must have at least two years' continuous service to qualify for a redundancy payment.

The maximum number of years continuous service that can be counted for statutory redundancy payments purposes is 20.

The statutory payment scheme is

- 0.5 week's pay for each full year of service where age during year less than 22
- week's pay for each full year of service where age during year is 22 or above, but less than 41
- 1.5 weeks' pay for each full year of service where age during year is 41 or above
- 

The statutory payment scheme is also subject to a cap on the amount of a week's pay to be taken into account, £571 as at April 2022.

However Scottish Borders Council currently exercises its discretion to make additional payments to employees in the event of redundancy. These powers are contained in the Teachers (Compensation for Premature Retirement and Redundancy (Scotland) Regulations 1996 as amended for Teachers and the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 as amended for all other employees. This discretion is scheduled to be reviewed and may be amended.

The current discretion exercised is to pay actual pay and not be limited to the statutory weekly maximum.

Also there will be a single redundancy compensation payment of up to 66 weeks' actual pay. This payment includes the statutory redundancy payment..

Any payments made under these regulations would be in addition to any entitlement under the Scottish Teachers Pension Scheme and the Local Government Pension Scheme.

The following is a general summary of current entitlement only and is not to be treated as a complete and authoritative statement of the regulations in any particular case.

### **Discretionary Payments to Single Status Staff Made Redundant**

#### **Staff aged under 50 with less than 2 years' service**

Are not entitled to a redundancy payment and are entitled to a refund of their pension contributions.

**Staff aged under 50 with 2 to 5 years' service**

Are entitled to a maximum payment of up to 66 weeks' pay. (The actual payment will be determined by length of service and age). There will be no pension lump sum payment. The pension can be frozen or transferred.

**Staff aged under 50 with 5 or more years' service**

Are entitled to a maximum payment of up to 66 weeks' pay. (The actual payment will be determined by length of service and age). There will be no pension lump sum payment and the pension itself can be frozen or transferred.

**Staff aged over 50 with less than 2 years' service**

Are not entitled to a redundancy payment and are entitled to a refund of their pension contributions.

**Staff aged over 50 with 2 or more years' service**

Are entitled to a payment based on up to 66 weeks' actual pay and are entitled to immediate payment of pension and lump sum from the Pension Scheme based on actual service but with no added years if they were in the LGPS AT 5 April 2006. Employees who were not in the scheme at that date can access their pension at age 55 based on their actual service but with no added years.

**Payments to Teachers made Redundant (based on application of maximum discretion)**

**Teachers aged under 50 with less than 2 years' service**

Are not entitled to a redundancy payment and are entitled to a refund of their pension contributions.

**Teachers aged under 50 with 2 to 5 years' service**

Are entitled to a maximum payment of up to 66 weeks' pay. (The actual payment will be determined by length of service and age). There will be no pension lump sum payment. The pension can be frozen or transferred.

**Teachers aged under 50 with 5 or more years' service**

Are entitled to a maximum payment of up to 66 weeks' pay. (The actual payment will be determined by length of service and age). There will be no pension lump sum payment. The pension can be frozen or transferred.

**Teachers aged between 50 and 60 with up to 2 years' service**

Are entitled to a payment based on up to 66 weeks' actual pay (5 weeks) and a refund of their pension contributions.

**Teachers aged between 50 and 60 with 2 to 5 years' service**

Are entitled to either a payment based on up to 30 weeks; actual pay and immediate payment of pension and lump sum from the Pension Scheme based on actual service but with no added years.

Or, a payment based on up to 66 weeks' actual pay with no payment of pension.

**Teachers aged between 50 and 60 with 5 years' service or more.**

Are entitled to a payment based on up to 30 weeks' actual pay with Pension with up to 10 added years.

**Teachers aged 60 and over with up to 2 years' service**

Are not entitled to a redundancy payment but are entitled to a refund of their pension contributions.

**Teachers aged 60 and over with between 2 and 5 years' service**

Are entitled to either a payment based on up to 30 weeks' actual pay and are entitled to immediate payment of pension and lump sum from the Pension Scheme based on actual service but with no added years.

**Teachers aged 60 and over with 5 or more years' service**

Are entitled to a payment based on up to 30 weeks' actual pay with Pension with up to 10 added years.