

ANTRIM BOROUGH COUNCIL

POLICY ON REDUNDANCY AND EARLY RETIREMENT

REDUNDANCY

1.0 INTRODUCTION

- 1.1 This policy sets out the principles that need to be followed by the Council in handling any redundancies that may arise at any time within Antrim Borough Council.
- 1.2 The Council will use their best endeavours to avoid the need for redundancy; however, where redundancies are unavoidable, management will make every reasonable effort to minimise the number of employees compulsorily made redundant.
- 1.3 For the avoidance of doubt, it is emphasised that the exigencies of the service will be fundamental in any decisions made regarding redundancies and the Council's need to retain specific knowledge and a balanced workforce.
- 1.4 The following sets out the approach which will be adopted by management when faced with a redundancy situation.
- 1.5 This policy in no way diminishes the rights or entitlements of employees under relevant legislation.

2.0 REDUNDANCY AGREEMENT

- 2.1 While it is recognised that different situations may require different methods, the arrangements below have been used as a basic framework within which management and Trade Unions can consult and settle any redundancy problems. Management accept that consultation with staff interests should be commenced at the earliest possible stage and then be a continuing feature for resolution. The Trade Unions accept that any arrangements to settle any future redundancies should take account of the efficiency of the Council and the services it provides.

3.0 DEFINITION OF 'REDUNDANCY'

- 3.1 Under the Employment Rights (Northern Ireland) Order 1996, a dismissal is only for redundancy if the reason or principal reason is that:
 - 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 have ceased or diminished or are expected to cease or diminish; or
 - the requirements of the business for employees to carry out work of a particular kind, in the place where they were so employed, have ceased or diminished or are expected to cease or diminish.

4.0 CONSULTATION

- 4.1 Where the Council has determined that redundancies are unavoidable, the Trade Union(s) or representatives of the staff involved will be consulted.
- 4.2 Consultation will normally include disclosure of the following information to recognised Trade Unions so that they can play a constructive part in the consultation process:
- a) the reasons for the proposals;
 - b) the numbers and categories of employees it is proposed to dismiss as redundant;
 - c) the total number of employees of any such description employed at the location under consideration;
 - d) the way in which it is proposed employees will be selected for redundancy;
 - e) how the dismissals are to be carried out, taking account of any agreed procedure, including the period over which the dismissals are to take effect.
 - f) how the method of calculating the amount of redundancy payment is to be made.
- 4.3 Some employees who may be made redundant may not be union members. The Council will make no difference in the treatment between Trade Union members and non-members. However, if they belong to a class of employee in respect of which a Trade Union is recognised, then the obligation to consult that union will still apply. While it is not possible to lay down precise guidelines, which would fit the circumstances of every case, the arrangements detailed below should be used as a basic framework within which management and Trade Unions will consult and settle any redundancy problems.
- 4.4 If an employee is to be made redundant the Council will begin consultation with Trade Unions at the earliest opportunity. No notices of termination of employment will be issued prior to the expiry of the statutory consultation periods set out below. The timing for such consultation will be no less than the statutory periods, which are as follows :
- if between 1 and 9 employees are to be dismissed as redundant – 20 days consultation period.
 - if between 10 and 99 employees are to be dismissed as redundant - 30 days consultation period.
 - if 100 or more employees are to be dismissed as redundant – 90 days consultation period.
- 4.5 Similarly, an employer proposing to dismiss as redundant 20 or more employees as redundant at one establishment within a period of 30 days must also notify the Secretary of State of the proposal at least 30 days before the date of the first dismissal.

- 4.6 The employer must also inform the Secretary of State as to which representative has been consulted and as to when the consultation started. The employer must provide the appropriate representative with a copy of the notice to the Secretary of State. The information required by law should be given on Form HR1.
- 4.7 During consultation the Council undertake to consider any Trade Union proposals for alternative action to avoid/reduce redundancies, or mitigate the effects thereof, that have not already been considered.
- 4.8 Once the Trade Unions have been advised of the redundancy, the Council will also write to every individual employee concerned in the redundancy exercise and advise him or her that they have been selected for redundancy. The employee shall also be advised of his/her right to make representations in this regard. Such representations should be made through the employee's Trade Union.

5.0 CONSULTATION WITH THE INDIVIDUAL

- 5.1 Although not required strictly by statute, it has become accepted good practice to consult with individuals as well as the recognised trade unions, as individuals are also more likely to respond constructively to the consultation.

6.0 VOLUNTARY REDUNDANCY

- 6.1 The scheme will be subject to a continual monitoring process to be undertaken by the Human Resources Department with approvals to voluntary early redundancies being granted only in those circumstances where they can be shown to be cost effective and generally beneficial to Council.
- 6.2 Voluntary redundancy will only be considered in the following circumstances:
- Any cases involving the payment of redundancy benefits meet the statutory definition of redundancy.
 - That employees fully understand that they are to be made redundant;
 - An employee who volunteers and is accepted for voluntary redundancy will be entitled to redundancy payments;
 - Where there is a need to select employees for voluntary redundancy from a group of volunteers the procedure and priorities for determining selection will be decided according to the circumstances relevant to that particular category of employment by the Director of the Department and the Human Resources Department in consultation with the appropriate employee representative.

7.0 MEASURES TO AVOID OR MINIMISE ANY COMPULSORY REDUNDANCIES

- 7.1 The basis for compulsory redundancy will take place as follows:-
- 7.2 Where individual posts are declared redundant, no selection method is necessary. The post holder is the redundant person.
- 7.3 Although each redundancy situation will be looked at on an individual basis, all measures, which might avoid or minimise the need for compulsory redundancies should be considered. Such measures may include:

- a) natural wastage;
- b) a review of the use of casual, agency and/or contract workers;
- c) reduction or elimination of overtime;
- d) re-deployment and/or the retraining of staff;
- e) restrictions or suspensions of recruitment and/or promotion where similar grades or disciplines exist;
- f) inviting staff to volunteer for redundancy

7.4 These measures are not exhaustive and are not listed in any particular order of importance or priority. The Council shall consider and reply to any other measures Unions may suggest or other representations they may make to avoid redundancies or minimise their effect.

7.5 The overriding consideration will, however, be the provision of a balanced workplace to maintain operational efficiency.

8.0 SUITABLE ALTERNATIVE EMPLOYMENT

8.1 In a redundancy situation every effort will be made to find employees suitable alternative employment. Management will consider whether or not alternative employment at the same grade can be offered within the same department or another department.

8.2 Criteria relating to regrading and voluntary downgrading are set out in Section 15 of this policy.

9.0 REDUNDANCY PAYMENTS AND COMPENSATION

9.1 No redundancy payment will be made to employees with less than two years' service.

9.2 Redundancy payments will be calculated on an individual's age and number of complete years of continuous service up to a maximum of 20 years.

9.3 Redundancy entitlement will be based on the rate of pay at the calculation date. Where payment levels vary (because of obligatory overtime, incentive schemes, shift work etc) the amount of a week's pay will be averaged over the 12 weeks prior to the calculation date. No maximum limit will be imposed on earnings levels used for this calculation.

9.4 Where an employee is within 12 months of his/her 65th birthday the redundancy entitlement will be reduced by one twelfth for each complete month after the 64th birthday. By the age of 65 years the employee would not be entitled to any redundancy payment.

9.5 These same criteria will also apply to part-time workers who have a minimum of two years' continuous service.

See Appendix 1 for detailed information on entitlement and added years.

10.0 UNIT OF REDUNDANCY

- 10.1 In the event of it becoming apparent that compulsory redundancies will be necessary, management will need to decide the unit of redundancy - that is, the appropriate pool of employees to which the selection criteria are to be applied. In arriving at the unit of redundancy management should consider such factors as:
- a) grade;
 - b) specialism/discipline;
 - c) geographical location;
 - d) functional area of work; and
 - e) the required coverage, e.g. Council-wide, departmental, geographical area, taking account of efficiency and fairness factors.
- 10.2 In the case of individual posts, the postholder, being one of a number of staff similarly qualified to fill the post that is being abolished, may not necessarily be the person to be declared redundant.
- 10.3 The employee selected must have information relating to the selection criteria, and those criteria must be applied fairly and consistently.

11.0 SELECTION

- 11.1 In the event of it being found necessary to select individual employees for redundancy, it may be found that the criteria set out will make it self-evident who should be made redundant. If this is not so, and some further process of selection is necessary, likely candidates identified by the Human Resources Department in accordance with these criteria will need to be considered by a Redundancy Panel. The Panel will consist of One Director one Assistant Director and the Human Resources Officer. Those selected for redundancy will be notified as soon as the choice has been made and will at the same time be given a memorandum setting out the reasons for the redundancy and the criteria used in selecting the staff to be made redundant, and indicating the extent to which these criteria have been agreed with the Unions concerned. The memorandum will also inform them of their entitlement to appeal.
- 11.2 Management shall consult with the Trade Unions on the selection of individual officers having regard to the criteria set out.

12.0 SELECTION CRITERIA

- 12.1 In considering the selection of staff for compulsory redundancy, management will establish in consultation with the appropriate Trade Unions specific criteria against which such selection will be made and should ensure that these criteria are fair, objective and precisely defined. Management should also ensure that the selection criteria maintain the acceptable balance of relevant skills and experience

within the remaining workforce, particularly in regard to Departments' future operational needs.

12.2 The selection criteria may include:

- a) **Skills or qualifications:** in order to ensure the retention of a staffing profile appropriate to future needs;
- b) **Individual ability:** ability or specialist knowledge acquired as a result of special training at the expense of the Department;
- c) **Standard of work performance:** selection on this basis must be supported by management reports;
(Area of Appraisals under consideration)
- d) **Attendance, timekeeping and disciplinary records:** records of absence must be accurate, and reasons taken into account;
- e) **Length of service in Local Government;**
- f) **Length of service with Antrim Borough Council.**

12.3 Whatever selection criteria are chosen, they should, as indicated above, be objective, consistently applied and not based solely on the opinion of an individual line manager. They should be adhered to strictly (i.e. the actual selection should accord with the chosen criteria) and they should cover all the employees concerned in the unit of redundancy including anyone absent (for example, sick). Managers should examine carefully the implications of any selection procedure to ensure that unlawful discrimination does not result directly or indirectly.

12.4 It is also important for Management to be aware and take account of the fact that the securing and continuity of fair participation in their Department could be compromised by redundancies and the method used to select them. For example, gains resulting from those most recently recruited could be dissipated under a LIFO (last in, first out) redundancy scheme. However, it is important to note that under Equal Opportunities Legislation it is lawful to negotiate a method of redundancy as part of affirmative action provided it is not selective on the basis of religious belief or political opinion. It is lawful to base a redundancy scheme on various other criteria such as skills, qualifications or disciplinary records, etc. In doing so employers are protected against accusations of both direct and indirect discrimination even though the scheme may impact disproportionately on the over-represented community in the workforce.

13.0 APPEALS

13.1 If the selected employees are content to retire, even though they had not volunteered at an earlier stage, there will be no need for any further action. But if the employee concerned signifies his/her wish to appeal, the Appeal Panel will be invited to consider the case before recommendation of the Redundancy Panel is confirmed, as an added safeguard against wrongful dismissal.

- 13.2 Appeals concerning selection for redundancy should be made in accordance with the following procedure. At each stage of the procedure the employee affected has the right to be accompanied by his/her Trade Union representative or work colleague of his/her choice.
- 13.3 If the employee is dissatisfied with the reply he/she should report the matter to the Assistant Director Human Resources. Arrangements will then be made within seven working days for a panel consisting of the Chief Executive, an independent Director and the Assistant Director Human Resources to consider the matter. The employee will be advised in writing within seven working days of the panel's decision.

REFERENCE TO THE LABOUR RELATIONS AGENCY

- 13.4 If the employee is not satisfied with the outcome of the appeal, the matter may by mutual agreement be referred to the Labour Relations Agency (LRA) for conciliation where a substantive issue can be established in respect of the application of the criteria set out and used by Council. The LRA will not be empowered to arbitrate on any issue other than the application of the selection criteria established in accordance with Section 12 of this policy. Where conciliation fails to resolve the matter, it shall be open to the aggrieved employee(s) to refer the matter to independent arbitration.
- 13.5 The Appeals Committee shall consist of an Independent Chairperson appointed by the Labour Relations Agency and two panel members, one drawn from a list supplied by the recognised unions and the other drawn from a list supplied by the Management.
- 13.6 The Agency shall also appoint a Secretary to the Appeals Committee who shall be responsible for the setting up of the Committee and for the provision of administrative services.
- 13.7 The Secretary, in conjunction with the Chairperson, shall fix a date for the Committee's hearing of the appeal and shall advise the parties accordingly; and shall invite nomination to the committee.
- 13.8 The Secretary shall also invite the parties to make written submissions to the Committee, such submissions to be received not later than ten days before the date of the hearing. The Secretary shall distribute copies of the submissions to the Committee members and to the other party not later than five days before the date of the hearing.
- 13.9 The Committee shall meet the parties to hear the appeal within twenty working days of the matter being referred to the Labour Relations Agency. The Chairperson shall determine the order of the oral presentations to the Committee.
- 13.10 The decision of the Appeals Committee shall be given in writing to both parties within ten working days of the hearing.
- 13.11 The work of the Appeals Committee shall not be invalidated by the absence of one or other of the parties.
- 13.12 The decision of the Appeals Committee will be final and binding on both parties.

Note

Nothing in this agreement may be construed as in any way diminishing the rights of the individual in law.

14.0 PERIODS OF NOTICE

14.1 During the period of notice, reasonable time off with pay will be allowed to attend interviews for other posts. The fullest notice will be given of all likely and actual redundancy programmes. This should maximise the extent to which normal wastage can be used to solve redundancy problems.

15.0 DOWN-GRADING/REGRAIDING

15.1 Employees facing redundancy may request voluntary downgrading to fill a vacant post, or management may consider offering staff regrading, or downgrading as an alternative to redundancy.

Where an employee requests voluntary downgrading \ regrading the employee must be able to demonstrate the competencies required to carry out the duties of the alternative post.

15.2 Where an employee accepts regrading, a trial period should apply. The purpose of the trial period which should be for a minimum of 4 weeks, to decide whether the alternative employment is suitable without employees losing the right to be treated as redundant if it proves not to be.

15.3 During the trial period, the Council may decide that the job is unsuitable, and may terminate the contract with notice, but the entitlement to the original redundancy payment remains. In these circumstances the Council may look at the option of further alternative employment for the employee. If the dismissal during the trial period is, for example, misconduct and not redundancy, the entitlement to a redundancy payment is lost.

15.4 A trial period may also be appropriate where employees are redeployed in a different specialism within the same grade.

15.5 Pay Treatment on Down-grading/Regrading

Where an Employee accepts down-grading/regrading as an alternative to redundancy, pay will be retained on a mark-time basis (personal to the post holder) until the new salary rises to that level.

15.6 Pension Treatment on Down-grading/Regrading

The Finance Department can give details of how pension is treated when an employee is down-graded/regraded.

15.7 Retraining and Resettlement

Where vacancies exist in the Council for which redundant staff would be suitable subject to an element of re-training, appropriate training will be given. Re-

training of a more general nature would more appropriately be undertaken on the personal initiative of those concerned, but management will offer advice and guidance wherever possible.

EARLY RETIREMENT

1.0 Ill Health

1.1 The Policy on Long Term Sickness will be followed in this instance.

See Appendix 2 for detailed information on entitlement and added years.

2.0 Efficiency of the Service

2.1 In order to meet future needs, or where a more flexible approach may be needed to meet varying staffing needs, Council will use the following criteria to assist in considering opportunities where discretion may be exercised in offering premature retirement on the grounds of the efficiency of the service.

- (a) where an employee is nearing normal retirement age and no longer has the capability of developing to meet the future needs of the service;
- (b) when an employee nearing normal retirement age holds a job which might more satisfactorily be performed by a younger person who may be more capable of coping with change/new technology;
- (c) where there is an increasing amount of casual sickness which is not sufficient to justify premature retirement on health grounds but can be linked to the strain of coping with changing work practices. Before retiring under these conditions the case should first be considered by the Council's medical adviser;
- (d) where a number of employees at a particular level or in a particular area are of an age where there could be a number of retirements which would affect the efficiency and cost effectiveness of the service if they took place within a short time of each other;
- (e) where a restructuring and/or reallocation of duties with or without redundancy is considered to provide for the more efficient organisation and discharge of functions;
- (f) where the transfer of an employee due to reorganisation is limited due to performance or lack of relevant experience.

In all cases other than redundancy the employee concerned and Council must both be willing parties to premature retirement arrangements.

Note: All employees who have reached the age of 60 years or over and have at least 25 years service may take early retirement without any abatement to their existing level pension entitlement. This does not have to be linked to the efficiency of the service.

2.2 Early Retirement Criteria (Efficiency of the Service)

If an employee is to be considered for early retirement then he/she must:

- be aged between 50 and 65 years;
- at the time of early retirement request have been employed by Antrim Borough Council for at least 5 years;
- be employed on a permanent contract (not a fixed term);
- be a contributory member of NILGOSC for at least 5 years.

2.3 Where applications are approved by the Council employees permitted to retire early under the provisions of this scheme will be considered for benefits under the Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001.

2.4 If a Director considers the proposition of early retirement can be supported both in financial and efficiency terms, they will refer the matter to the Management Team for endorsement and consequent consideration by the Council.

2.5 As part of this scheme consideration may be given to the cost of compensation, which may be recovered through savings, made possible by the retirement, within a reasonable period (normally about 2 years). Management would reserve the right to undertake a cost benefit analysis before granting voluntary retirement.

2.6 Where the Council undertakes a cost benefit analysis it may inter alia consider the following:

- a) Savings resulting from the restructuring of the staffing establishment.
- b) Savings through the non-filling of specified associated vacancies (i.e. Relating to posts which would have otherwise been filled).
- c) The non-filling of the post of the retiring employee for a defined period of time in order to accrue savings.
- d) A reduction in related costs (other than manpower).
- e) Permanent replacement of an employee at a lower wage/grade level.

See Appendix 3 for detailed information on added years.

EQUAL OPPORTUNITIES CONSIDERATIONS

Management should be aware that arrangements governing selection for redundancy carry the potential to offset gains made in the equal opportunities composition of the workforce by persons of an under-represented group. In devising redundancy arrangements due regard will be paid to the Council's Equal Opportunity policy and objectives.

CHIEF EXECUTIVES AND DIRECTORS

There are special provisions in relation to redundancy laid down in the national conditions of service for chief executives and directors.

The conditions of service of the Joint Negotiating Committee (JNC) for Chief Executives of Local Authorities states that if, following a proper investigation, a proposal to abolish the post of a chief executive has been put forward by the employing authority, or an appropriate committee or sub-committee, so that there is the possibility of the redundancy of the post-holder, a period of consultation is necessary under the procedure for handling Redundancies as set out in Article 49 of the Industrial Relations (Northern Ireland) Order 1976. The information required under the Act should be given in writing to:

- (a) the chief executive and a representative of an independent trade union
- (b) the Joint Secretaries of the JNC.

Receipt of this information by the chief executive should start the consultation period, which must be of at least 28 days' duration. During this consultation period, alternative employment should be considered. In the light of the consultations the authority should first consider the proposals and any representations made by or on behalf of the chief executive, and only then take whatever decision it considers appropriate. The authority should bear in mind throughout this procedure the desirability of treating the matter as confidential until a final decision has been made.

Dismissals on grounds of redundancy are *not*, however, covered by **The Local Authorities (Standing Orders) Regulations 1993** (SI 1993 No. 202) and there is no requirement under regulation 3 to appoint an independent person to investigate the redundancy.

The conditions of service of the *Joint Negotiating Committee for Directors of Local Authorities* also contain provisions relating to redundancy as follows.

1. Authorities should consult with any director affected at the earliest possible stage when there is a suggestion that the officer's post might be abolished or proposed for abolition.
2. If after such consultation a proposal is formulated to abolish the director's post, the procedure of requiring consultation with trade unions should be followed, the statutory information being sent to the director and to each independent trade union recognised by the employers for collective bargaining purposes for each director. A period of not less than 28 days should be allowed for the statutory consultation process. The director and a trade union representative should also be afforded an opportunity of making oral representations to the committee or council meeting concerned before a final decision is made.
3. If following such consultations the authority decides that the post must nevertheless be abolished, the officer should be offered any suitable alternative employment that may be available or which may become available in consequence of the reorganisation giving rise to the abolition of the officer's post.
4. The authority should also bear in mind the possible application of discretionary powers of early retirement and permissible enhancement of benefits of redundancy compensation under the provisions of the

Regulation 62 of the Local Government (Superannuation) Regulations (Northern Ireland) 1992. The possibilities of providing an alternative post or of extending the period of notice to assist the director in finding other employment should also be considered.

A number of points follow from the above provisions.

1. It is likely that the procedure will form part of the chief executive/director's contract, and failure to follow it properly may lead to a finding of unfair dismissal.
2. The consultation must be genuine, the provision of the law fully complied with, and the authority must be able to demonstrate that redundancy is the real reason for the dismissal.

Appendix 1 (Redundancy)

Redundancy payments will be calculated on an individual's age and number of complete years of continuous service up to a maximum of 20 years.

Employees aged 50 years or over with 5 years or more service

- redundancy payment (no upper limit on a weeks pay);
- pay in lieu of notice (if cannot be worked);
- payment of immediate pension benefits (both tax free lump sum and annual pension);
- added years up to a maximum of 6 and 2/3 years.

Added years will count both towards the lump sum and annual pension.

Employees aged 50 years or over with 2 years and less than 5

- redundancy payment (no upper limit on a weeks pay);
- pay in lieu of notice (if cannot be worked);
- payment of immediate pension (cannot give added years).

Employees aged 50 years or over with less than 2 years service

- NO redundancy payment;
- pay in lieu of notice (if cannot be worked);
- five weeks pay for one years service;

Employees aged under 50 years of age with 2 years or more service

<u>Age</u>	<u>Entitlement</u>
18 – 19	Half a weeks pay per year of service after the age of 18.
20 –22	Half a weeks pay for each year after age 18 to 20 and one weeks pay per year of service after age 20.
23 – 40	Two weeks pay per year of service. (based on service from age 18 years)
41 – +	Two weeks pay for each year since 18 to 40 plus five weeks pay per year after age 41.
	The cap is set at 66 weeks.

Appendix 2 (Ill Health Retirement)

Enhanced Service

Reckonable Service

Service Benefit

0 – 5 years

Actual Service

5 to 10 years

Doubled

10 to 13 and 1/3 years

20 years

Over 13 and 1/3 years

6 and 2/3 years

In all cases the added years service is subject to a maximum of 40 years in total or the service that could have been completed by the age of 65 years if less.

Example:

Termination at age 57 with 10 years service	-	add 8 years
57 with 20 years service	-	add 6 years and 2/3 years
60 with 20 years service	-	add 5 years
60 with 40 years service	-	Nil

Appendix 3 (Benefits on the Efficiency of the Service)

Employees aged 50 years with 5 years or more year's service (at least 5 years has to be with Antrim Borough Council):

- NO redundancy pay;
- pay in lieu of notice (if cannot be worked);
- immediate pension (both tax free lump sum and annual pension);
- added years up to a maximum of 6 and 2/3 years.

Added years may be granted not exceeding the shortest of the following:

- a maximum of 6 and 2/3 years;
- a period which when added to the employees reckonable service does not exceed 40 years;
- a period equivalent to the employees total qualifying service;
- a period equal to the time from the employee's retirement to his/her 65th birthday.

Appendix 4 Local Government Pension Scheme Regulations (Northern Ireland) 2002

The above regulations are expected to come into force in the autumn / winter 2002. The Regulations will require a policy statement covering, inter alia:

- (i) early retirement between the ages of 50 – 60;
- (ii) the waiving, on compassionate grounds, of the abatement to an employee's pension if he/she retires without satisfying the "rule of 85";
- (iii) the award of additional years to employees leaving after age 50.

Any additional provisions or other form of amendment arising out of the policy statement and impacting on the redundancy and early retirement policy will be cross-references to, and integrated with, the policy.