

REPORT TO CABINET

REPORT OF: Cllr Paul Carpenter Corporate Governance and Housing Portfolio

REPORT NO: HR & OD 103

DATE: 6th July 2009

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| TITLE: | Updated HR Policy : Redundancy | |
| KEY DECISION OR POLICY FRAMEWORK PROPOSAL: | Local Choice function as approved by Council on 18 th June 2009 | |
| PORTFOLIO HOLDER: NAME AND DESIGNATION: | Cllr Paul Carpenter Corporate Governance and Housing Portfolio | |
| CONTACT OFFICER: | Joyce Slater, Human Resources and Organisational Development Manager | |
| INITIAL IMPACT ASSESSMENT: | Carried out and Referred to in paragraph (7) below: | Full impact assessment Required: |
| Equality and Diversity | | |
| FREEDOM OF INFORMATION ACT: | This report is publicly available via the Local Democracy link on the Council's website: www.southkesteven.gov.uk | |
| BACKGROUND PAPERS | CEX 253 Changes to council policies on pensions and compensation payments Council meeting 26 th October 2006 | |

1. RECOMMENDATIONS

1. That the cabinet approve the adoption of the updated Redundancy policy statement detailed in appendix 1

2. PURPOSE OF THE REPORT/DECISION REQUIRED

The Council has a large number of policies in place relating to the employment of staff. These need to be reviewed and updated on a regular basis to ensure legislative compliance and best practice. A programme is in place to do this, in line with the People Strategy.

This report seeks Cabinet approval for an updated redundancy policy. It has been a priority to address for reasons such as the length of time since the last review, legislative changes, and good practice advice. It has also been drafted to help managers understand what they need to do

operationally and when HR involvement is required. In the case of the redundancy policy, the Council made a decision relating to redundancy payments at its meeting on 26th October 2006 to ensure compliance with the age discrimination regulations. The redundancy policy detailed in appendix 1 does not change that decision. The policy has been updated in line with that decision and to refresh the practical arrangements that apply.

3. DETAILS OF REPORT (SUMMARY – USE APPENDICES FOR DETAILED INFORMATION)

3.1 Redundancy Policy – Appendix 1

The report to the Council on 26th October 2006 focused on changes being made to the calculation of redundancy payments and Council made the following

DECISION:

That Council approve the following changes to the Council's pension and compensation policies to take effect subject to the relevant statutory instruments being approved and subject to the statutory notice period of thirty days having expired:

1) That compensation payments for redundancy are calculated using the statutory scheme with a multiplier of 2.2 to actual salary, thereby limiting the maximum eligibility to 66 weeks.

Consideration of any enhancement beyond the current 66 weeks up to the maximum discretionary allowable of 104 weeks would be considered on the grounds of compassion which is defined as "Situations of severe personal distress resulting from non-financial circumstances affecting the individual or close relative leading to unavoidable financial hardship".

2) That the compensation payments for redundancy continue at the statutory level, as at present, for those employees aged 50 and above whose redundancy effects a release of their pension.

The original redundancy policy was in need of review. It made no reference to the processes to be followed and the policy statement in Appendix 1 addresses this need.

The proposed policy statement in appendix 1 makes it clear that whilst the Council will take all reasonable steps to avoid redundancy, it may happen. It sets out how the Council will work to ensure that employees are treated reasonably. It highlights the need for consultation and the basis upon which selection for redundancy might be considered.

In reviewing the old policy statement it became evident that it did not explicitly cover situations where individuals were made redundant and were not members of the pension scheme. The new policy statement

addresses such an eventuality.

3. 2 Consultation

These policies have been subject to consultation with the trade unions who represent staff and those with whom a collective agreement applies. The consultation on the Redundancy policy commenced on 11 July 2008. We have also introduced a policy consultation group for local representatives and those who attended have made a valuable contribution to the development of the policy statement. I would like to place on record how much the views they expressed have informed the practical arrangements. In addition service managers have been consulted and their feedback has been incorporated.

Following the approval of this policy a series of toolkits for service managers will be introduced and used as the basis for training service managers in the policies' practical application and to assist managers with their skills development relating to people management.

4. OTHER OPTIONS CONSIDERED

Not updating the policy is not an option.

5. RESOURCE IMPLICATIONS

The financial implications of any proposed redundancy will be considered according to the circumstances that apply to the relevant circumstances. The procedural arrangements will impact on workloads in exceptional circumstances as the consultation applies to each individual affected.

6. RISK AND MITIGATION (INCLUDING HEALTH AND SAFETY AND DATA QUALITY)

The risk to the Council of not having a clear policy in place could be that of litigation arising from unfair processes and this policy mitigates that risk.

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

This policy statement deals with exceptional circumstances and the application of this policy can be monitored for equality purposes when it has been applied. The scope to make adjustments is incorporated into the policy.

8. CRIME AND DISORDER IMPLICATIONS

N/A

9. COMMENTS OF SECTION 151 OFFICER

The redundancy policy has been updated to reflect the current legislation. The termination benefits are detailed in the appendices. The Council will take all reasonable steps to avoid redundancies. The financial implications will be appraised and considered as part of any redundancy proposal.

10. COMMENTS OF MONITORING OFFICER

This report updates the current policy on redundancy. It is essential all policies are updated in line with current legislation as soon as legislative changes are made. Such changes were approved by Council at its meeting on the 26th October 2006. At its meeting on the 18th June 2009, Council approved changes to the Constitution to confirm such policies should be considered by Cabinet for approval as matters of local choice. Consultation took place with staff representatives in 2008 and all Members were informed of the proposed changes in 2006.

11. APPENDICES: attached

DRAFT REDUNDANCY POLICY

Introduction

South Kesteven District Council strives to be an employer of choice and as such believes in taking all reasonable steps to avoid redundancies.

However, it has to be accepted, that from time to time modernisation, service improvements, reorganisations and financial considerations affect staffing levels or the need for particular types of employees, and redundancies may become necessary.

Where this occurs, the Council is committed to minimising the effect and to giving reasonable support to those employees who are affected.

Definition

An employee who is dismissed shall be taken to be dismissed for redundancy if the dismissal is attributable wholly or mainly to the fact that:-

the employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed; or

the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he was so employed, have ceased or diminished, or are expected to cease or diminish.

Application

This policy applies to all employees in circumstances where the above definition applies and who would otherwise have a statutory entitlement to redundancy (e.g. minimum two years continuous local government service including service recognized under the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 where relevant).

Consultation

The Council believes in working positively with the recognised trade unions to resolve problems and to minimise the impact on employees. Therefore, consultations with Trades Unions will be managed in good time as will those with individual employees, and all positive suggestions will be given serious consideration.

Where the relevant provisions of the Employment Rights Act 1996 apply, the Council will issue a Section.188 (S.188) notice to the relevant trade unions which will contain the following information:-

- the reasons for the proposals;
- the numbers and descriptions of employees whom it is proposed to dismiss as redundant;
- the total number employed of that description at the establishment concerned;
- the proposed method of selecting
- the proposed method of carrying out the dismissals, including the period over which the dismissals are to take effect.

In addition, the following consultation requirements will be met in the case of large scale redundancies:

- a. Where 20 – 99 employees are made redundant at one establishment, consultation will begin at least 30 days before the first dismissal takes effect
- b. Where 100 or more employees are to be made redundant at one establishment consultation will begin at least 90 days before the first dismissal takes effect

Avoiding or Minimising Redundancy

The Council will take all reasonable steps to avoid or minimise redundancies. The strategy adopted may vary with each redundancy situation, but typically will include one or more of the following depending on its appropriateness in the circumstances:

- redeployment and retraining procedures;
- achieving the necessary reductions through natural wastage;
- freezing recruitment, or only appointing temporary employees, or filling vacancies from existing employees;
- reviewing overtime working;
- reviewing contracted-out work;
- reducing hours of work of employees on variable hours contracts; or
- seeking voluntary reductions in working hours, or volunteers for job-sharing.

Any such measures should not adversely affect service delivery and development. Early planning and consultation is important in order to minimise the effects of redundancies. The input and involvement of Human Resources staff at an early stage is important in order that managers manage the process well and avoid unnecessary risks to the Council.

Selection Criteria

Where active selection is required, the Council is committed to the method of selection being fair, non-discriminatory, and objectively justifiable.

On occasions however no active selection may be required (e.g. in some restructuring situations). Thus, the required staffing reductions may be achieved by a combination of the strategies outlined above, or alternatively redundancies may be required which 'select themselves' i.e. a particular post or group of posts is clearly identifiable and represents a fair and objective method of selection which is supported by a business case.

On each occasion it is important to ensure that a proper analysis of future staffing needs is carried out, and that staffing reductions do not cause future imbalances. Maintaining a balanced and effective workforce is a legitimate consideration for management.

The Council reserves the right to choose a method of selection which is appropriate to the particular redundancy situation and is committed to early consultation with the recognised trade unions and individual employees over the particular method of selection in any redundancy situation.

Typical methods of selection will vary from situation to situation and could include selection on the basis of one or more of the following:

- "self selection", i.e. certain posts are clearly identifiable as that particular work will cease;
- Volunteers;
- relevant skills, qualifications, or contribution;
- punctuality and/or attendance;
- costs;

In line with the Council's stated commitment to active selection, full consideration will be given to the Council's equal opportunities policy and legal obligations in the application of the methods of selection in respective redundancy situations.

The Human Resources & Organisational Development Manager (or his/her representative) can advise the manager on the proposed selection criteria before consultations commence.

Notice Period

The Council will normally consider it appropriate that the employee should work out their notice.

The length of notice that an employee is entitled to receive is laid out in their principal statement of particulars. If the Council considers that there are exceptional circumstances where it would be appropriate for an employee to be paid in lieu of notice, any such notice will be paid net. The Service Manager Human Resources & Organisational Development (or his/her representative) can advise managers on whether it may be appropriate for an employee to be paid in lieu of notice.

An employee who is offered and commences employment within one month and one day of their date of redundancy with a body specified in Part II of Schedule 2 of the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 will be required to repay any redundancy payment that has been made.

Hearings and Appeals

Any employee selected for redundancy will be notified in writing of the reason for their redundancy and invited to discuss the matter with the appropriate manager before the selection is confirmed in writing. The employee has a right to be accompanied at the meeting by a Trades Union representative or work colleague.

An employee also has the right to appeal against selection for redundancy.

Assistance to Employees

The Council will give all reasonable help to employees made redundant and this may include:

- reasonable paid time off to look for other work;
- reasonable retraining facilities to retrain for alternative work, if appropriate;
- positive one to one support in dealing with the problems of redundancy;
- information on current vacancies within the Council;
- redeployment as set out below
- approaching other local employers re possible job opportunities
- advice on redundancy and pension payments;

Redeployment and alternative employment

The Council will seek to redeploy those employees whose posts are at risk of redundancy. Available vacancies will be advertised to employees at risk through the Council's intranet or notice boards and details communicated directly by the Council's HR service.

Prior consideration status will be given to staff for jobs at the same grade of the employees current job. In such situations, employees will be offered the new job subject to their meeting the essential requirements of the job. Additionally, where a redundant employee believes that there is an available post within the Council that could be suitable, he/she should raise this with the human resources section at the earliest opportunity.

Otherwise where the Council believes that an available alternative position may be suitable for a particular employee or where an employee has expressed an interest in an advertised position, the employee will be interviewed in accordance with its normal recruitment & selection procedures in competition with other applicants.

Maternity

Under regulation 10 of the Maternity and Parental Leave etc Regulations 1999, Employees who are on maternity leave when their post becomes at risk of redundancy will receive prior consideration for suitable alternative jobs in preference to other employees whose posts are at risk of redundancy.

If an employee is offered suitable alternative employment, but unreasonably refuses the offer, he or she loses the right to a redundancy payment.

However, if the alternative employment offered is unsuitable and/or the employee's refusal of the offer is reasonable, he or she will be treated as having been dismissed by reason of redundancy and will retain the right to a redundancy payment under the terms of this policy.

Where an employee is offered and accepts an alternative post, he or she is entitled to a statutory trial period of four weeks beginning on the day the employee starts the new position. The purpose of the trial period is for both the employer and the employee to establish whether or not the job is in fact suitable for the employee. The employer and the employee may agree in writing to extend the trial period for any length of time beyond the statutory four weeks if the new job requires the employee to be retrained. The case for an extension should normally be considered at the start of the trial period.

Termination Benefits

Employees' redundancy payments will be based on actual weekly pay (rather than the statutory maximum) and paid in line with the statutory guidelines as follows;

For each complete year of service up to a maximum of 20, employees are entitled to:

- for each year of service under age of 22 – half a week's pay
- for each year of service at age 22 but under 41 – one week's pay
- for each year of service at age 41 or over – one and a half weeks' pay.

In addition the Council will apply a multiplier of 2.2 to the above rates for employees who are redundant and not eligible to access their Local Government Pension Scheme (LGPS) benefits.

Where employees are redundant and as a result are entitled to early payment of LGPS pension benefits, they will receive redundancy entitlements in accordance with the statutory scheme based on actual weeks pay but without the multiplier. Such employees will also receive entitlements in accordance with the council's pension's policy in line with relevant statutory provisions in place at the time. These will take account of the transitional arrangements in place for the LGPS and the Council's agreed policy in place at the time.

Employees who are not members of the LGPS and are not able to access early payment of pension benefits will receive the benefits of the multiplier.

The Chief executive can consider and determine whether to enhance redundancy payments up to 104 weeks on the grounds of compassion which is defined as "Situations of severe personal distress resulting from non-financial circumstances affecting the individual or close relative leading to unavoidable financial hardship"

Review

This policy will be reviewed annually in the light of changing employment legislation and the application of this policy in practice.