

REDUNDANCY POLICY

Adopted (7th November 2019) – Personnel Sub Committee – Minute 468 Employee Handbook

Folkestone Town Council is committed to maintaining and providing excellent services for the local community and to ensuring the efficient and effective use of its resources in support of this objective. This may, from time to time, require changes in the way in which it is organised and structured, with a consequent impact on staff.

The Council recognises that such changes can cause concern for staff. It will therefore ensure that these are managed in a way which seeks to minimise any potential detrimental impact on staff, as well as ensuring compliance with employment legislation and in accordance with recognised standards of good employment practice.

The needs of the Council may, from time to time, require a reduction in the number and/or type of staff employed or other organisational change which may result in one or more staff redundancies.

This procedure sets out the steps which will be followed by the Council during a period of change. It does not form part of our employees' terms and conditions of employment and may be subject to change by the Council.

The Council will:

- Seek to retain the skills and experience of staff where practicable, avoiding job losses wherever possible;
- Where job losses are inevitable, manage these fairly, consistently and sympathetically, seeking to minimise, as far as possible, any hardship that may be suffered by the staff concerned;
- Consult with employees on the proposed changes and their implementation at the earliest possible opportunity;
- Ensure that any selection for redundancy is based on clear and objective criteria which are fairly and reasonably applied;
- Make every reasonable effort to provide suitable alternative employment within the Council for staff affected;
- Provide support to any employee selected for redundancy in helping them to find suitable alternative employment

The Council will take any reasonable steps to avoid redundancies. Where redundancies become unavoidable, the Council will seek to keep the number to a minimum. This will include but is not limited to:

- Seeking expressions of interest, without commitment on either side, in voluntary redundancy or early retirement, including where this may provide suitable alternative employment for an "at risk" employee;
- Consideration of potential suitable alternative employment, where this may be available within the Council.

Definition of Redundancy

Under the Employment Rights Act 1996 a redundancy situation will occur in the following circumstances:

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

This means that a redundancy situation will arise where there is a need for a reduction in the number of employees at the place where the employee was employed or a reduction in the number of employees doing a particular kind of work.

Consultation

The purpose of consultation is to provide an early opportunity for all concerned to explore the options available and to enable trade union or employee representatives or individual employees to suggest alternative ways of tackling the problem or to minimise hardship if redundancies are inevitable.

Consultation on redundancies will take place with the appropriate Trade Union(s), employee representatives and employees affected at the earliest possible opportunity and will ensure compliance with statutory requirements. The Council will always consult with individual employees but will also carry out collective consultation if 20 or more employees are to be made redundant. Consultations will be conducted with a view to reaching agreement, but it is acknowledged that consultations can end before agreement is reached.

Employees and, where appropriate, their representatives will be provided with the following information as part of the genuine and meaningful consultation process:

- the reasons for the proposals;
- the numbers and description of employees proposed to be dismissed as redundant;
- the total number of employees of that description employed at the establishment in question;
- the proposed method of selecting the employees who may be dismissed;
- the proposed method of carrying out the dismissals, including the period over which the dismissals are to take effect; and
- the proposed method of calculating the amount of any redundancy payments – other than statutory payments – to be made to the employees who are dismissed.

Consultation must also include ways of:

- avoiding the dismissals, i.e. considering other options instead of dismissal;
- reducing the number of employees to be dismissed, e.g. suspending recruitment or redeployment; and
- mitigating the consequences of dismissal, e.g. severance payments and outplacement counselling.

Consultation will be for no less than 30 calendar days and will be concluded before a final decision is taken. No notice of dismissal for redundancy will be issued until after consultation has concluded.

The employee's manager will meet with the employee on a number of occasions to explain the basis on which he/she has been provisionally selected for redundancy, give the employee the opportunity to express his/her views, concerns, raise any questions they have and discuss any alternatives and finally to confirm the outcome of the consultation and whether they are to be issued with notice of dismissal. Employees have the right to be accompanied at the above meetings by a trade union representative, employee representative or work colleague.

The consultation process will precede any public announcement of the redundancy programme and the issue of notices of termination. Such notices will not be issued until the consultation process has been completed.

It may also be appropriate for the Council to consult on other areas, such as the effect on earnings where transfer or down-grading is accepted in preference to redundancy, whether a redundant employee may leave during the notice period without losing any entitlement to a statutory redundancy payment and arrangements for reasonable paid time off to seek alternative work.

Alternatives to Redundancy

The Council will take all reasonable steps to avoid redundancies and, where redundancies become unavoidable, to keep the number of redundancies to a minimum. Alternative courses of action will be reviewed in order to identify any options available in light of:

- whether any employees wish to consider voluntary redundancy;
- whether the Council can reduce the number of casual, agency or contract staff; and
- whether alternative work may be available, particularly vacancies that arise from other employees' resignations.

Voluntary Redundancy

In order to minimise the need for compulsory redundancies the Council may consider requests from employees for voluntary redundancy. An important consideration when seeking voluntary redundancies is the potential imbalance in the remaining skills and experience which may be created by accepting those employees who volunteer for redundancy. Therefore, the Council reserves the right at its absolute discretion to decline requests for voluntary redundancy.

Any redundancy payments that may be due to employees who volunteer for redundancy will be calculated in the same way as they would have had the employee been made compulsorily redundant.

Alternative Work

The Council will make every reasonable effort to find alternative work within the organisation for any employee who is selected for redundancy. Such employees will be informed of any available vacancies at the time of their selection and during their notice period. They will be given the opportunity to discuss with their manager any vacancies which may be suitable.

Where either an employee or management have identified a post as being potentially suitable alternative employment, the employee will need to participate in a selection process in order to establish whether or not the position is suitable for the employee, taking into account the employee's skills, knowledge, experience, level of seniority as well as the terms and conditions of the post.

Employees who are on maternity (or adoption) leave are legally entitled to be offered any suitable alternative work that is available if they are made redundant while on leave. Failure to do so may result in the dismissal being automatically unfair.

Where a redundant employee is considered for alternative work, management reserves the right to make the final decision as to whether or not to offer the employee that position. If a decision is made to offer the employee the position, the offer will be made in writing and the employee will be given five working days to decide whether or not to accept it.

Suitable Alternative Employment

Where an alternative post is substantially the same with regards to:

- pay;
- status;
- work base location;
- duties of the post;
- work environment; or
- working hours

the post will be considered to be suitable alternative employment.

Should an employee unreasonably refuse an offer of suitable alternative employment, the employee will lose his/her right to any statutory or occupational redundancy payment that may be due.

Trial Periods

A redundant employee who is offered alternative employment under a new contract of employment with terms and conditions which differ (wholly or in part) from the corresponding provisions of the previous contract has a statutory right to a trial period. The trial period will last for a period of four weeks and will begin when the old contract expires. The purpose of the trial period is to give the employee a chance to decide whether the new job is suitable without necessarily losing any right to a redundancy payment, and for the Council to assess their suitability and ensure they meet the required standards, taking into account any training or retraining for the new role. If, following a trial period, the employee accepts a suitable alternative job within the Council, there shall be no entitlement to a redundancy payment. The four week trial period may be extended by mutual agreement for retraining purposes. Any extension must be in writing, specifying the date on which the retraining ends and setting out the terms and conditions that will apply after this date. If the employee works beyond the end of the four week period, or any jointly-agreed extended period, they will be deemed to have accepted the new employment and there will be no entitlement to any redundancy pay.

Should the Council wish to end the contract within the trial period for a reason connected with the new job, the employee shall preserve the right to any redundancy payment under their old contract. If the dismissal is due to a reason unconnected with the redundancy the employee may lose that entitlement.

Should the employee terminate the contract during the trial period, they will be treated as having been dismissed by reason of redundancy on the date when the original contract came to an end. However, if the Council considers that the new job was suitable for the employee and the employee acted unreasonably in leaving it, they will lose any entitlement to a redundancy payment.

Selection Criteria

Where compulsory redundancies are necessary, the criteria used in selecting employees for redundancy will depend on the circumstances and particular needs of the Council at the time. However, every effort will be made to construct a fair and robust set of objective criteria, on which staff will be consulted. The Council will also ensure that the pool of employees to whom the selection criteria are applied is fairly defined.

The selection criteria will be applied in a fair, consistent, objective and non-discriminatory manner, and will be capable of objective substantiation and of being backed up with evidence and data. Examples of possible criteria include the following:

- performance, skills and knowledge - the type and level of skills and knowledge necessary to perform the particular type of work should be clearly defined in specific terms. A systematic assessment of each of the relevant employees should be undertaken by reference to objective evidence, eg, appraisal and other work records, skills analysis, quality/accuracy of work, demonstrated ability and willingness to undertake a range of relevant duties
- attendance record – attendance records should be examined over a reasonable period, eg two years, taking into account the reasons for and extent of any absences. A distinction may be drawn between periods of unauthorised and/or self-certificated absences and those which are covered by a Doctor's "Fit Note". Any absences related to pregnancy, childbirth or disability, as defined in the Equality Act 2010, should be disregarded.
- qualifications – the requirement for formal qualifications may be used as one selection criteria where this is relevant to and essential for the type of work to be undertaken
- disciplinary record – reference may be made to the type and level of any current disciplinary warnings.

Where an employee in the pool for selection is disabled, the Council will ensure that he/she is not disadvantaged by the application of the selection criteria and will make any reasonable adjustments to the selection procedure to remove any disadvantage that the disabled employee may otherwise have.

Individual employees who are provisionally selected for redundancy following the application of the criteria will be informed of the fact and invited to a meeting, at which they will be given an opportunity to make representations that the application of the criteria results in unfairness to them or if they feel that there has been a mistake in the application of the criteria.

Time Off to Seek New Employment

An employee who has at least two years continuous local government and Modification Order body service is entitled to reasonable time off with pay during his/her notice period in order to look for new employment or to make arrangements

for training for future employment. This includes time off to attend job interviews or visit employment agencies or a job centre in connection with new employment.

Employees wishing to make use of this right should discuss their requests with their manager. A request will not unreasonably be refused. An employee taking such time off will not be required to make up for the time taken by working additional hours at another time or to take such time as annual leave.

In addition, the Council undertakes to notify nearby local authorities and other local employers to request information on any vacancies which might provide employment opportunities for redundant employees.

The Town Clerk and line managers will, as far as is reasonably possible, assist redundant employees with advice and assistance in job-seeking, completion of application forms, interview skills, etc.

Redundancy Payment

Employees who are dismissed for redundancy and who have a minimum of two years' continuous service with local government or Modification Order bodies will normally be entitled to a statutory redundancy payment, calculated according to their age and length of service and in accordance with the current statutory formula.

The Council will provide employees with a written statement of how the redundancy payment is calculated.

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

- for each year of service under age 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

The Council will make redundancy payments in accordance with the statutory scheme, subject to the amendment that the "week's pay" will be the actual week's pay (i.e. the limit in the statutory scheme will not apply).

Employees who are members of the Local Government Pension Scheme may also be entitled to immediate payment of their pension benefits, in accordance with the provisions of that Scheme.

Should an employee who is under notice of redundancy be offered a new job with another local government or Modification Order body before the expiry of the notice period, and the employee takes up that post within four weeks of their last day of service, no dismissal will have occurred and the employee will not be entitled to a redundancy payment but they will retain their continuous service and be entitled to a trial period in the new job.

Employees who are being made redundant have an obligation to inform the Council if they are offered a new position prior to their last day of service.

Should an employee be offered a new position with a local government or Modification Order employer after their last day of service, regardless of when they take up that new position, they are entitled to retain their redundancy payment. However, they will not retain their continuous service.

Offers of new employment from non-local government employers do not affect entitlement to redundancy payments.

Accrued holiday will be taken where possible, but any leave not taken will be paid.

In addition to the redundancy payment entitlement, employees who are dismissed on grounds of redundancy will be given the period of notice, or payment in lieu of notice, to which they are entitled under statute and their contracts of employment.

Taxation of Redundancy Payments

Statutory redundancy payments are expressly exempt from income tax. They will, however, be taken into account in determining whether or not the total compensation paid to an employee exceeds the £30,000 tax-free limit.

Occupational redundancy payments are taxable only to the extent that they exceed the £30,000 limit.

Payments that are not genuinely made to compensate for loss of employment through redundancy will be taxable, e.g. payments for past service, accrued holiday pay, pay in lieu of notice, etc.

Appeals

If an employee feels they have been unfairly dismissed, by reason of redundancy, they have the right of appeal. The employee should write to the Town Clerk within five working days of the receipt of the written confirmation of the termination of the employment, setting out the grounds for appeal. The appeal will be heard by the Executive Committee of the Council. The hearing will normally take place within ten working days of the receipt of the employee's letter of appeal. The redundancy notice shall not be suspended during the appeal process but shall be revoked if the appeal is successful.

Policy Review

The policy will be reviewed every four years. Folkestone Town Council will also examine this policy after it has been used as a commitment to continual improvement.