

Redundancy Policy and Procedure



Links to Other Policies:

Retirement Policy [\[hyperlink to policy will be inserted when published\]](#)

Teachers' Pension Scheme Members - Retirement/Redundancy Payments Policy

Redeployment Policy [\[insert hyperlink to policy\]](#)

Effective date:

1st December 2018

Review Date:

Autumn 2021

Status:

This policy and procedure does not form part of any employee's contract of employment and the Council may amend it at any time.

HR and Workforce Development Policy and Guidance in Gateshead Council

Gateshead Council's HR and Workforce Development policies take into account current legislation, rules, regulations and best practice guidance from a range of professional and public bodies, including the following:



UK Legislation



EU Legislation



ACAS



CIPD Best Practice

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Redundancy Policy Statement

1.0 Aim

Government austerity measures and increasing demand for services will inevitably lead to changes to the way services are delivered across the Council. To ensure the Council maintains its ability to deliver, new and innovative ways of working must be continually encouraged by the Council and embraced by its employees. Changes may ultimately have an impact on the employees of the Council; however, the Council is fully committed to maintaining job security for all its employees where possible. Where ultimately there may be a requirement to reduce the workforce, the Council will consider other options available through the HR Framework before the use of compulsory redundancy.

The purpose of this policy is to outline how employees will be treated if it unfortunately becomes necessary to propose redundancies. The policy relates to proposals in respect of both voluntary and compulsory redundancies.

2.0 Definition of Redundancy

In legal terms, redundancy occurs when an employee is dismissed because:

- the employer closes down the business or service; or
- the employer closes down the employee's workplace; or
- there is a diminishing need for employees to do work of a particular kind.

3.0 Scope of the Policy

This policy applies to all employees who have at least 12 months' continuous local government service, including employees with fixed term or temporary contracts. However, it does not apply to:

- a. Centrally employed members of the Teachers' Pension Scheme in relation to release of pension. Please refer to the Teachers' Pension Scheme Members - Retirement/Redundancy Payments Policy.
- b. Employees appointed by, or employed by, the governing body to work in a school. (The responsibility for redundancy matters in these instances lies with the governing body of the school.)

To qualify for a redundancy payment an employee will have to have at least 2 years' continuous local government service at the date of redundancy.

4.0 Commitments

Compulsory redundancies will only take effect when all other options have been explored and excluded, including redeployment within the Council and voluntary redundancy and voluntary early retirement.

4.1 The Council

In all cases of redundancy the Council will ensure that:

- The selection procedure is fair, consistent, objective, and non-discriminatory and in accordance with the Council's Equal Opportunities Policy and redundancy legislation and best practice.
- The selection criteria are clear, objective and precisely defined.
- No employee is treated less favourably or discriminated against in the application of the redundancy selection criteria.
- It uses its best endeavours to avoid compulsory redundancy, and will seek to retain skills and knowledge within the organisation wherever possible.
- It enters into consultations with trade unions, workplace representatives and individual employees as soon as the possibility of a reduction in the size of the workforce arises in order to discuss the problem and explore the options for avoiding, reducing or mitigating the consequences of redundancies.
- Where compulsory redundancy is unavoidable the situation will be handled in the most fair, consistent, and sympathetic manner possible and minimise as far as possible any hardship that may be suffered by the employees concerned.

4.2 Employees

In all cases of redundancy the Council expects affected employees to:

- Continue to perform their current role or the role required of them.
- Make themselves available to enter into consultations with management with the aim of discussing the problem and exploring the options for avoiding, reducing or mitigating the consequences of redundancies.
- Undertake an offer of suitable alternative employment and be prepared to consider a wide range of alternative jobs in line with the Council's Redeployment Policy.

Redundancy Procedure

In order to minimise the impact of reductions in the workforce the following procedure will be applied. The Strategic Director, Corporate Services and Governance must be advised as soon as the potential for redundancies is identified.

1.0 Statutory Notification

Where potential redundancies have been identified, written details will be provided to recognised trade unions. Statutory consultation notices (section 188 letters) will be issued to trade unions, regarding proposed redundancies detailing:

- The reason for the proposals
- The numbers and descriptions of employees to be proposed as dismissed as redundant
- The total number of employees of that description employed by the Council 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
- The proposed method of calculating the amount of any redundancy payments to be made.
- The number of agency workers working temporarily for and under the supervision and direction of the Council, including where they are working and the type of work they are carrying out.

* refer to 'Note on Application of Criteria and Weightings'

The Strategic Director, Corporate Services and Governance will inform the Secretary of State at the Department for Business, Innovation and Skills (BIS) on form HR1 of proposed redundancies in the following circumstances:

- If 20-99 employees at one establishment are being made redundant, at least 30 days' notice will be given before the first dismissal takes effect.
- If 100 employees at one establishment are being made redundant, at least 45 days' notice will be given before the first dismissal takes effect

The HR1 notice must be provided to the BIS before notice to terminate an employee's contract of employment is issued.

2.0 Consultation

Failure to consult appropriately with the relevant trade unions and all employees affected about proposed redundancies can lead to a complaint to an Employment Tribunal which may result in the payment of compensation to affected employees. It is important to note that consultations with all affected employees is essential, including those who are absent from work.

2.1 Timescales for Consultation

Management, supported by Human Resources will enter into consultations with trade unions, workplace representatives and / or individual employees as soon as the Council starts to consider potential redundancies. The purpose of the consultations is to establish whether the proposed changes can be achieved by means other than redundancy and if not, to try to minimise the number of compulsory redundancies.

The Council has a statutory obligation to:

- begin consultations at the earliest possible opportunity where the number of redundancies proposed is less than 20.
- begin the consultation process at least 30 days before the first dismissal takes place, where between 20 and 99 redundancies are proposed at one establishment over a period of 90 days or less.
- begin the consultation process at least 45 days before the first dismissal, where the number of redundancies proposed is 100 or more over a period of 90 days or less.
- In all cases, consultations will commence as soon as reasonably practicable and no redundancy notice of dismissal will be issued until at least 14 days after consultation begins.

Where there is the potential for large-scale redundancies the Council will endeavour to apply a 90 day consultation period.

Management will consult with the trade union representatives of those at risk of redundancy, and with those who are recognised to represent employees who may be affected by the measures taken in connection with those dismissals e.g. employees having to take on reallocated work.

2.2 Objectives of Consultation

The Council will consult employees and their representatives about:

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

Amongst other measures to avoid or minimise redundancies, consideration must be given to the following, subject to the Council's immediate strategic considerations:

- Restricting the recruitment of new employees other than where this is essential;
- Restricting and reviewing the use of subcontracted labour;
- Restricting the use temporary and casual employees;
- Reducing overtime and other employment costs;
- Covering the cost of the posts using other funding;
- Exploring opportunities to maximise trading or increase revenue;
- Return of secondees to their parent organisation;
- Redeploying the affected employees into other suitable Council vacancies, noting the ability to do this on a trial period basis;
- Inviting applications for consideration for early retirement and / or voluntary redundancy. Early retirement will be considered in line with the Council's Retirement Policy and is subject to ensuring that the balance of skills and experience within the remaining workforce is appropriate to the Council's future operating needs.

Consultation might also cover special arrangements for the treatment of apprentices. It is the responsibility of the Council to try to find alternative opportunities for apprentices to complete their apprenticeships within the same industry. Only as a last resort should apprentices be treated as part of the labour force for the purposes of redundancy selection.

Consultation must be undertaken with a view to reaching agreement with the appropriate representatives on these issues, even if employees to be made redundant are volunteers.

3.0 Voluntary Redundancy

Prior to making any compulsory redundancies the Council will consider whether any voluntary redundancies can be supported. Agreement to voluntary redundancy is subject to ensuring that the balance of skills and experience within the remaining workforce is appropriate to the Council's future operating needs.

Voluntary redundancy applications in 'at risk' areas:

The Council will write to all affected employees (i.e. those identified as at risk of redundancy) asking them if they wish to apply for voluntary redundancy and/or voluntary retirement. Where the number of applicants exceeds requirements, selection will be based on the criteria as set out in the section 'Selecting for Redundancy'

Voluntary redundancy applications from employees not at risk of redundancy:

Where employees not at risk are interested in taking voluntary redundancy, they should speak to their manager to declare their interest. There are no guarantees that voluntary redundancy applications will be agreed, especially where there is a business need to retain people who have key skills in certain areas. However, where there is an opportunity for someone whose job is at risk to move into a job in another suitable area, others not in 'at risk' areas may be considered for voluntary redundancy.

Applications will only be approved where to do so would clearly support effective business planning and service delivery in the long-term. In addition, the cost to the Council will be a major consideration. In order to reach a decision on whether or not to support an application, consideration will be given to the viability of a bumped redundancy where appropriate. A bumped redundancy occurs when an employee whose role is not at risk of redundancy leaves on grounds of redundancy, and the resulting vacancy is filled by an employee whose role is redundant. This may be achieved by a sequence of moves rather than a single one.

Selecting for Voluntary Redundancy:

Where the number of volunteers in any given selection pool exceeds requirements, selection will be based on the following criteria:

- Capability
- Attendance Record
- Disciplinary Record

Further details regarding these criteria are set out in the ['Note on Application of Criteria and Weightings'](#). The employee with the fewest points will be selected.

Where two or more employees are tied on the same points, the selection decision will be based on length of service with Gateshead Council. The employee with the longer length of service would be selected. The Council will discuss the reasons for non-selection with individuals.

The Council has the right to decline any application for voluntary redundancy. An application may be declined for the following reasons:

- The need to retain specialist knowledge and skills within the service
- The post is fixed term
- A bumped redundancy cannot be identified.

This is not an exhaustive list and there may be other factors affecting a decision at that time. The reasons for declining an application will be set out in writing.

4.0 Compulsory Redundancy

Where voluntary redundancy has not produced suitable or sufficient volunteers, the Council, in consultation with the trade unions, will need to select employees for redundancy.

A dismissal on the grounds of redundancy may be considered by an Employment Tribunal to be unfair if the procedure for selection for redundancy has been unfairly applied to the employee(s) concerned, or, if the way in which it has been carried out has been unreasonable e.g. without adequate warning or consultation with the appropriate representatives.

Before applying the redundancy selection criteria, it may be necessary to exempt certain employees from the possibility of being selected. This is because they possess, for example, specialist skills, qualifications or experience that are vital to the continuing viability of their group or service and the delivery of its services in the future. Discussion of these factors should take place with the trade unions at the outset where a redundancy situation is being proposed. In doing so, management must document why these skills, qualifications or experience are crucial to the ongoing viability of their service.

Following these discussions, and in the absence of appropriate volunteers, it may prove necessary to apply a redundancy selection process. This will be based on the agreed selection criteria as detailed in the ['Note on Application of Criteria and Weightings'](#), against which points will be allocated as appropriate for each employee on each occasion.

The total points allocated for the criteria will be used to place employees in a rank order with fewest points at the top and most points at the bottom. Selection for redundancy will be based upon fewest points.

Where two or more employees are tied on the same points, the selection decision will be based on length of service with Gateshead Council. The employee with the shorter length of service would be selected. If two employees have the exact same length of service, then a competitive interview will be held.

The relevant Service Manager, together with a representative of Human Resources, will apply the selection criteria. The results will be presented to the trade unions,

confidentially, for their information for use in supporting their members. Those selected for redundancy will be advised at a formal meeting at which their trade union or a work colleague can be present.

Those employees not selected for redundancy will be advised of this in writing.

5.0 Notice Periods

Employees will be given notice in accordance with their contract of employment.

6.0 Appeals Procedure

If an employee who is selected for redundancy considers that the agreed selection criteria have been unfairly applied in their case, they have the right to appeal to the Personnel Appeals Committee.

If an employee selected for redundancy is absent from work, dismissal will take place in their absence, with a right of appeal to the Personnel Appeals Committee.

Any employee who wishes to exercise their right of appeal against selection for redundancy must do so in writing, within 10 working days of receiving their redundancy notice. Appeals must be submitted to the Strategic Director, Corporate Services and Governance, clearly stating the reasons for the appeal and provide, where relevant, evidence to support their appeal.

The employee has the right to be accompanied at the appeal by a work colleague or trade union representative. Employees will be notified in writing within 10 days of the Personnel Appeal Committee's decision.

The decision of the Personnel Appeals Committee will be the final decision of the Council in the matter.

7.0 Assistance in finding other work

7.1 Suitable Alternative Work

The Council must attempt to seek alternative employment for employees who are in receipt of a notice of dismissal for redundancy. The Council will follow the procedure detailed in the Redeployment Policy when seeking alternative work for employees. Redeployment will only be sought for an employee during their notice period. No extension will be given beyond the date of dismissal.

Where the Strategic Director, Corporate Services and Governance is satisfied that a suitable alternative post has been offered to an employee who is selected for

redundancy and such alternative employment has been declined, the redundancy payment will be withheld.

Where alternative work cannot be found within the Council for an employee selected for redundancy, Economic Development may be able to assist in securing alternative employment outside the Council.

7.2 Trial Period

An employee who is in receipt of a redundancy notice of dismissal is entitled to a trial period in an alternative job. The Council will follow the procedure detailed in the Redeployment policy when an employee undertakes a trial period.

If an employee works beyond the end of the trial period, or an agreed extended period, any redundancy entitlement will be lost as the employee will be deemed to have accepted the new job.

If the Service Director ends a trial period for a reason connected with the suitability for the new job, the employee will receive a redundancy payment under their old contract of employment. If the dismissal is not connected with the redundancy e.g. misconduct, the employee may lose that entitlement.

7.3 Time off to look for new work / training

Subject to the Council's operational needs, all employees in receipt of a redundancy notice of dismissal will, as a minimum, be given paid time off work during their notice period to attend interviews or training opportunities. Requests for reasonable time off should be agreed with their line manager.

8.0 Advice and Guidance

The Council's Economic Development Service can provide advice and guidance to employees selected for redundancy on:

- how to find another job
- the completion of application forms
- attending interviews

The Council can also provide counselling to employees, prior to the expiry of their notice period to assist them in dealing with being selected for redundancy.

9.0 Redundancy Payments

All redundancy payments made by the Council will be in accordance with the Council policy in place at the time of dismissal and will be paid no sooner than 5 working days, and no later than 10 working days after the date of redundancy.

To be entitled to a redundancy payment an employee must have at least two years continuous local government service. All employees who receive redundancy payments will be given written notification of the way in which their redundancy payment has been calculated. The same benefits and entitlements will be offered regardless of whether the redundancy is 'voluntary' or 'compulsory'.

Redundancy payments are based on the statutory redundancy pay table and are subject to an employee's age and length of service. For each complete year of service, up to a maximum of 20, employees are entitled to:

- for each year of service under 22 years old – ½ a week's pay
- for each year of service at age 22 but under 41 - 1 week's pay
- for each year of service at age 41 or over – 1.5 weeks' pay.

The Council applies a multiplier of 1.25 times the number of weeks' pay given in the statutory redundancy pay table, giving a maximum of 37.5 weeks' pay.

This provides for a discretionary compensation payment based on up to 37.5 weeks statutory redundancy pay. The Council will exercise its power to use actual pay in the calculation of weekly pay and the discretionary compensation will be inclusive of any statutory redundancy payment. A redundancy pay table is included in this document.

Employees aged over 65 will qualify for a redundancy payment if the reason for their dismissal is redundancy.

9.1 Calculation of a week's pay

A week's pay is that which the employee is entitled to under the terms of their contract. This may include implied terms that have been established via regular payments and by custom and practice. As such it does not just include terms (payment entitlements) written into the employee's contract of employment. It will, for example, include those payments received where the employee has worked the same pattern over a period of at least 12 weeks prior to the termination date. For the avoidance of doubt, it will not include any employer's contributions to the Pension Fund.

The calculation date is the date on which the employment is terminated.

If an employee's pay varies (such as the regular receipt of lettings allowances or additional hours), the amount of a week's contractual pay is averaged over the 12 weeks prior to the calculation date.

9.2 Statutory Maternity and Adoption Pay

Once an employee has qualified for statutory maternity pay she will be eligible to be paid for the full 39 week period even if she is made redundant during her maternity leave. For example, if the qualifying week begins on 1st January, and the woman is dismissed after this date she will still be entitled to statutory maternity pay even if she was not planning to start her maternity leave until closer to her expected date of childbirth.

If an employee is on maternity or adoption leave when they are made redundant they will not be required to refund the monies paid, or such part thereof.

9.3 Pension

Providing LGPS rules are met, such as having sufficient LGPS membership, any employee aged 55 or over who volunteers or is selected for redundancy, will be entitled to early release of their pension benefits as from the date of their termination.

10.0 Multiple Contracts

Where an employee has multiple contracts with the Council at the point that the redundancy notice of dismissal is issued, the start date in the contract that they are being made redundant from will be used to calculate their redundancy payment. Where an employee has had multiple contracts but only has one contract of employment at the time the redundancy notice of dismissal is issued, then their start date in their very first contract of employment with the Council is used for calculating their redundancy payment where they have continuous service, and taking into account any previous continuous local government service.

11.0 Note on Application of Criteria and Weightings

In most cases where a redundancy situation has been proposed, volunteers will be sought in the first instance. However, if there are insufficient volunteers or, if there is a need to retain specialist skills or experience, the following criteria will be used to select employees to be made redundant.

A reference period is shown below for each of the criteria. The effective date (where the reference period starts from) will be the date the redundancy situation is formally notified to the trade unions and the Section 188 letter is issued i.e. the date of the s188 notice. This date can only be altered where an employee has been absent due to maternity, adoption, additional paternity leave, other statutory leave, or a career

break e.g. where an employee has been on maternity leave for 6 months then their qualifying period goes back a further 6 months. The reference period cannot be altered because of any delay in the process or due to any other circumstances.

Capability (Generic competencies, knowledge, qualifications, skills & experience)

This criterion will assess whether or not an employee is fulfilling the requirements of the job.

The Council's policy defines capability as:

... the ability an employee has to perform his/her duties to a standard that is acceptable to the Council for the effective and efficient delivery of its services. In the normal course of work employees meet and may exceed these standards.

Any formal Improvement Notes issued for reasons of capability or negligence under the capability procedure will be reflected in this criterion. This is to avoid double counting under criterion (d) Disciplinary Record.

The Service Manager will allocate an overall score for this criterion.

The score will be one of the following:

- | | |
|--|-----------|
| ◆ Meets overall requirements of the job | 20 points |
| ◆ Does not meet all requirements of the job and is subject to an Improvement Note under the Council's Capability Procedure | 15 points |
| ◆ Subject to a Final Improvement Note | 10 points |

Length of Service

The period of continuous service with Gateshead Council measured from employment start date to effective date is used to calculate the employee's length of service, not just the service in their current job. However, where an employee has multiple contracts with the Council at the point of redundancy, the start date in the contract that they are being made redundant from is used to calculate their continuous service. Where an employee has had multiple contracts but only has one contract at the time of redundancy, then their start date in their very first contract is used for calculating their length of service, where this is continuous service.

For employees who have taken a career break of 12 months or less, the time spent on their career break will count as part of their continuous service. For employees who have taken a career break of over 12 months their contract of employment ended at the commencement of their career break. Therefore, their continuous

service start date will be effective from the first day they returned to work after their career break.

Employees will be allocated one point for each full year of continuous service with Gateshead Council up to a maximum of 20 years (20 points).

For employees who have transferred to the Council under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE), continuity of service is preserved and service with their previous employer will be taken into account.

Attendance record

An absence is classified as any absence due to sickness, whether self-certified or covered by a medical certificate (fit note).

Before selecting on the basis of attendance, it is essential that the reasons for and extent of any absences be identified. Any absences which directly relate to disability, pregnancy/maternity or industrial disease, industrial accident or industrial assault will be excluded from consideration.

Absences due to hospital appointments or special leave and recorded as such will not be counted. Where the employee is admitted to hospital and is away from work for more than a day this will be counted as an absence.

All types of authorised absence such as annual leave, maternity leave, paternity leave, etc. will not be counted.

Points will be awarded over a 36-month qualifying period measured prior to the effective date. For employees who have taken a career break of 12 months or less during the 36-month qualifying period, the assessment period will extend beyond the 36-month qualifying period, equal to the length of the career break. For example, if an employee has taken a six-month career break, the 36-month qualifying period will be extended by a further six months.

This criterion will look to take into account the frequency and total duration of any absences. That is, a score will be allocated for the number of absences and a separate score for the total duration of those absences. A combined score will then be produced:

Number of occasions

Zero absences	= 10 points
1 absence	= 9 points
2 absences	= 7 points
3 absences	= 5 points
4 absences	= 3 points

5 absences	= 2 points
6 absences	= 1 points
7+ absences	= 0 points

Total number of days

0 days	= 10 points
More than 0 and up to 5 days	= 9 points
More than 5 and up to 10 days	= 7 points
More than 10 and up to 25 days	= 5 points
More than 25 days and up to 50 days	= 3 points
More than 50 days and up to 75 days	= 2 points
More than 75 days	= 0 points

Absences after the effective date will not be taken into account.

Absences of ½ day will be counted as one occasion.

Absence for part-time employees will be converted to the full-time equivalent to ensure fair and equitable scoring for attendance.

Disciplinary record

Formal warnings issued in accordance with the Council’s disciplinary procedure will be taken into account here. These will include warnings issued for misconduct but **not** for concerns connected with an employee’s capability (improvement notes).

Formal warnings issued for short-term persistent sickness absences will also not be included as this performance issue has already been considered in the ‘attendance’ criteria.

Points will be awarded with reference to a 24-month qualifying period measured prior to the effective date as follows:

- No warnings = 20 points
- Written warning = 15 points
- Final written warning issued within the period of 12-24 months prior to the effective date = 10 points
- Final written warning issued within the last 12 months prior to the effective date = 5 points
- Redeployment with a final written warning as an alternative to dismissal = 0 points

Further Information

Gateshead Council recognises that from time to time employees may have questions or concerns relating to the content of this document. In certain situations employees' rights and obligations may change; in such circumstances the Council will abide by any statutory obligations.

The Council wishes to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. Employees are encouraged to seek clarification on any issues with the appropriate Line Manager in the first instance.

Sustainability

Improving our environmental performance and doing things in a more sustainable way should be seen as integral to our core business practices. To demonstrate the Council's commitment to improving environmental and sustainable performance, please be mindful if printing this document – keeping paper usage to a minimum (print only version), printing on both sides, and recycling.

Equality Statement

Gateshead Council is an equal opportunities employer where all employees are treated with dignity and respect. We are fully committed to equality, diversity and human rights and to ensuring our culture, working environment, policies, processes and practices are free from bias. This policy applies to all employees regardless of protected characteristics, subject to any eligibility criteria which may include length of service, grade, working pattern or other applicable national terms and conditions of service.

Inclusive Communications

It is our ambition to ensure that Council documents are readable, accessible and engaging for staff. In formatting this document, good practice principles around engagement and inclusive communications have been adhered to. If you require this document in an alternative format please contact HR and Workforce Development.

Review and Monitoring

This policy will be reviewed every three years or sooner where applicable to reflect changing the needs of the Council and any other legislative or good practice requirements.