

1. Aim

- 1.1 Since its formation in 1974 the Council has been committed to a policy of avoiding compulsory redundancies wherever possible. Whilst the Council aims to preserve continuity of employment it also recognises that there may be circumstances where there is a need to reduce the number of people employed in a particular area of work.
- 1.2 Effective human resource planning is crucial in determining existing and future staffing needs together with implementing the changes required by government and Council policy and in providing excellent services to our customers.
- 1.3 This can only be achieved in the long term by ensuring that if the number of employees required reduces or the services provided reduce, there will remain a balanced workforce who will be of the necessary size and possess the appropriate skills to meet the remaining workload.
- 1.4 In seeking to minimise or avoid compulsory redundancies the Council, in consultation with the trade unions, will consider other methods of achieving reductions in staff such as:
- Natural turnover
 - Restrictions on recruitment
 - Re-training and redeployment to other parts of the Council
 - Encouraging requests for flexible working / part time hours
 - Reduction or elimination of overtime
 - Seeking applicants for early retirement or voluntary redundancy
 - Termination of agency staff or temporary employees with less than two years service
 - Filling vacancies internally
- 1.5 When considering applications for early retirement / voluntary redundancy the Council retains the right to refuse applications which are too expensive in terms of pension or redundancy costs or which would not be in the Council's best interests, such as the need to retain necessary professional or technical skills.

2. Redundancy

- 2.1 Under the Employment Rights Act, 1996, a redundancy arises when an employee is dismissed because:
- The employer has ceased, or intends to cease to carry on the business for the purposes of which the employee was employed or in the place where the employee was so 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 the 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.
- 2.2 Redundancies may also arise where it is proposed employees should be dismissed as a result of a reorganisation where there is no reduction in the overall numbers of staff involved due to the recruitment of new staff.

3. **Consultation**

- 3.1 In situations where there is an identified need for staffing numbers to reduce, the Council will consult the relevant trade union(s) at the earliest opportunity. In situations where there is a proposal to make 20 or more employees redundant over a period of 90 days or less, there is a statutory duty to consult with representatives of any recognised trade union(s) or other elected representatives of the affected employees. Consultation must begin at least 30 days before the first dismissal takes effect if between 20 and 99 employees are to be made redundant. If 100 or more employees are to be made redundant over a period of 90 days or less, consultation must begin at least 45 days before the dismissal takes effect.
- 3.2 It is possible that in the event of a need for staffing numbers to reduce that there will be less than 20 possible redundancies. In this situation there should be a minimum 30 days consultation period prior to any redundancy notices being issued.

Notification to the Department of Business, Innovation and Skills (HR1)

- 3.3 In addition to consulting the trade union(s) it is necessary to notify the Secretary of State at the Department of Business, Innovation and Skills on form HR1 of proposed redundancies involving 20 or more employees in a 90 day period. At least 90 days notice must be given if 100 or more employees are to be made redundant and at least 30 days notice for between 20 to 99 employees. The Human Resources Manager is responsible for this notification.

3.4 **Formal notification to the Trade Unions (Section 188 notice)**

Under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 there is a legal requirement to disclose in writing the following information to the appropriate trade union representatives, where it is proposed to make 20 or more employees redundant over a period of 90 days or less.

- The reasons for the proposals
- The numbers and description of employees that are potentially at risk of redundancy

- The total numbers 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 agreed procedure and the period over which the dismissals are to take effect
 - The method of calculating the amount of redundancy pay
- 3.5 All employees who are potentially redundant should be consulted together with employees who are indirectly affected by the proposals, for example, those employees who may be asked to undertake additional / different work as a result of the redundancies.
- 3.6 At all stages in the consultation process an employee is entitled to be accompanied by a companion who is a trade union representative, or an official employed by a trade union or a fellow employee of their choice.
- 3.7 The consultations should include ways of avoiding the dismissals, reducing the number of employees to be dismissed and mitigating the effect of the dismissals. There should be sufficient time to allow the union to put forward constructive proposals and the consultation must be undertaken with a view to reaching agreement.
- 3.8 The process of consultation should precede any public announcement of the redundancy programme.
- 3.9 Termination notices should not be issued until all meaningful discussions have been concluded and the consultation process has been completed.
- 3.10 Employees should be advised that a redundancy payment is due only if the employee has at least two years continuous service with any employer who is covered by the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999.
- 3.11 Apprentices who have completed their period of apprenticeship and who are not offered employment on the completion of their training are not entitled to a redundancy payment.

4. **Procedure**

- 4.1 Where there is a need for staffing numbers to reduce the Council will identify vulnerable employees and will agree the "pool" of employees from which the redundancies will be drawn with the trade union(s). This might be one team within a Service Grouping/Unit, a group of employees doing the same job working to the same or similar job descriptions or those employees performing a similar function across a number of Service Units. Where the redundancy applies to a particular job or jobs held by one or more individuals, the post(s) will be redundant without the need for selection. The following procedure will be used:

- i) Write to the employee / employees in order to arrange a meeting with the Service Manager and a Human Resources Officer giving brief details of the reasons for the potential redundancies or reductions in posts. Arrange for the employee to be accompanied in line with paragraph 3.6.
- ii) Discuss the reasons for the potential redundancies together with the numbers of employees and areas of work involved with the employee(s) and their companions. At this stage details of the selection criteria to be used and methods of calculating redundancy payments should also be discussed. See Appendix 1 for details of how redundancy pay is calculated and under what circumstances redundancy pay can be withheld.
- iii) Employees will qualify for an immediate pension if they are retired early on the grounds of redundancy (or in the interests of the efficiency of the service) and are aged 55 or over with 3 months' membership or have transferred pension rights of any length into the LGPS from another scheme. Arrangements should be made to discuss estimates of pension benefits (where applicable) on an individual basis.
- iv) Details of the Council's Redeployment Scheme (see paragraphs 5 – 9 below) should be discussed with the employee(s) together with offers of additional training, support with CVs and personal support.
- v) Employees should also be asked whether they wish to volunteer for redundancy or redeployment.
- vi) Where offers of early retirement and voluntary redundancy do not produce suitable volunteers, the agreed selection criteria should be implemented (see paragraph 9 and Appendix 2).
- vii) Employees selected for redundancy should be issued with the appropriate period of notice of termination. They should also be notified of the right to reasonable paid time off to search for alternative work or attend training and be offered welfare counselling, if appropriate.
- viii) Any employee who has been selected for redundancy and who is dissatisfied with the way in which the Council has applied its redundancy selection criteria, or who believes that he/she has been unfairly disadvantaged by the selection criteria or not given a fair opportunity to put forward representations can appeal against his/her selection for redundancy by writing to the Human Resources Manager within ten working days of the receiving the redundancy notice. The appeal will be heard as set out in Appendix 3

5. **Redeployment Policy**

- 5.1 Any employee who has been employed by the Council for a period of two years or more has the right not to be unfairly dismissed, irrespective of whether they are employed in a permanent, fixed term or temporary

contract. Such employees who are then in a position where a redundancy situation has been formally declared have the right to be considered for redeployment, and will be classed as being vulnerable, or at risk.

5.2 An employee may also be declared vulnerable when a need for a reduction in staffing has been formally identified in a report to the Council, even if there has not been a formal declaration of a redundancy situation. In these circumstances, an employee will not be declared vulnerable until his / her trade union representative has been informed. Wherever possible there will be consultation before reports are submitted to the Council.

5.3 The Human Resources Manager will maintain a register of vulnerable employees, so that the Human Resources staff can offer advice and counselling on the various options available to them, including where appropriate, suitable alternative employment opportunities.

6. Notification of alternative employment opportunities

6.1 If possible, the Council will offer suitable alternative work to vulnerable employees. Such offers will depend on the availability of alternative posts and on the suitability of the employees for those posts. In assessing the suitability of employees, existing skills and experience will be considered together with the potential, after retraining if necessary, to perform to a satisfactory standard in the new job. Each vulnerable employee will be asked to complete a Redeployment Information Form. Their manager and/or a Human Resources Officer will be available to give advice where necessary. This form will be retained in Human Resources and used to assist the search for suitable alternative employment opportunities.

6.2 Each vulnerable employee will be asked what type of work would be of interest. Each vacancy will be seen as a potential opportunity for alternative employment for any vulnerable employee.

6.3 Once a vacancy has been authorised for filling, discussions will take place between the recruiting Manager, a Human Resources Officer and an appropriate trade union representative to determine how the vacancy should be filled. There are a number of options for filling vacant posts including slotting in or prior consideration.

6.4 Slotting in process

Consideration may be given to "slotting in" an employee directly into a vacant post if the following conditions apply. This approach can be applied prior to or after the issue of redundancy notices.

- The vacant post is on the same grade or a maximum of one grade lower (ie where the difference between the bottom of both grades is up to 4 increments lower), in which case pay protection would be applied, and,
- The work is the same or broadly similar to that in the employee's current job role. This assessment will be made by the Recruiting

Manager and the Human Resources Manager by comparing the JD and Person Specification of the old and new post, and,

- There is only one employee suitable for each vacant post and no competitive selection is necessary.
- The vulnerable employee meets the essential requirements of the person specification for the vacant post, or if there is a small training gap, this could be met within a short period, e.g. the acquisition of basic keyboard skills or technical updating by a short course.
- Consultation takes place with the individual employee and Trade Union
- The application of the policy results in a logical and reasonable outcome.

6.5 Prior Consideration

Where a redundancy situation has been declared, or is anticipated, vacancies will be advertised internally and ringfenced to vulnerable employees or to employees under notice of redundancy, where they will be given prior consideration. Employees will only be ringfenced to a vacant post where the vacant post is the same grade, or no more than 1 grade higher or lower (ie where the difference between the top of both grades is up to 4 increments higher, or where the difference between the bottom of both grades is up to 4 increments lower) than the employee's post.

- 6.6 Employees employed on temporary or fixed term contracts who will have completed less than 2 years service at the date of redundancy are not eligible to be ringfenced to vacancies.
- 6.7 If there are no suitable applicants from the vulnerable employees or if the vacancy is more than 1 grade higher or lower (ie where the difference between the bottom of both grades, or the top of both grades is more than 4 increments) than the grades of the vulnerable employees, consideration will be given to advertising the post internally. This may release a vacancy elsewhere in the grading structure which a vulnerable employee could be appointed to using slotting in or prior consideration. The decision to advertise will be made by the Human Resources Manager in consultation with the appropriate trade union.
- 6.8 Any vulnerable employee can apply for the vacancy and if they meet the essential criteria for the post the employee should be interviewed before any other applicants are considered. The Council's Recruitment and Selection Guidelines must be followed in relation to the short listing and interview process. If, in the view of the Selection Panel an offer cannot be made, any other applications received will be considered
- 6.9 The post will be offered on the basis of a trial period. If the trial proves unsuccessful, the Recruiting Manager will have discretion to offer the post (after consultation with HR and the trade unions), to another vulnerable applicant on a trial basis. If the trial period / periods are unsuccessful and

there are no more suitable vulnerable applicants, the post will be advertised as outlined in 6.7 prior to any external advert.

7. Offers of Alternative Employment

- 7.1 Any offer made to an employee will be made in writing, and will initially be for a trial period of not less than four weeks. A trial period can only be extended for the purposes of re-training, and where the terms of the extension have been agreed in advance. Any such offer will point out any obvious differences between the jobs which might cast doubt upon whether or not the offer is suitable. This will include differences in earnings as well as the duties and responsibilities.
- 7.2 The purpose of a trial period is to give the employee the chance to decide whether the new job is suitable and for the Council to assess the employee's suitability.
- 7.3 During the trial period, any training that is considered reasonable and necessary to enable the employee to establish suitability in the new post will be given.
- 7.4 If, in the opinion of management and following consultations with the trade unions the employee has not demonstrated suitability in the post during the trial period, the employee will either be considered for any other redeployment opportunities if available, or return to the original post. In these circumstances the employee will be declared redundant at the date on which the redundancy would have otherwise occurred. If the trial period has already extended beyond that period, the employee will be declared redundant with immediate effect. This would be made clear at the beginning of any extension to a trial period.
- 7.5 If the manager considers that the employee has demonstrated suitability in the post, the position will be offered on a permanent basis on the terms, conditions and pay, which would normally apply in the post but with the protection as described in paragraph 7.6. If the employee accepts the offer, the appointment will be confirmed on a permanent basis.
- 7.6 Any redeployment will carry with it protection by comparing the existing salary with the new grade. The existing salary will be protected for a period of 12 months from the date of redeployment. In year 2 protection will be at 75% of the existing salary, and in year 3 protection will be at 50% of the existing salary.
- 7.7 Redeployed employees who suffer a reduction in grade with grade protection can protect their pension position by freezing their pension at the higher level of pay before their pay reduces. Employees in this situation are advised to seek independent financial advice before deciding what action to take.

- 7.8 In certain circumstances it may also be necessary to agree payments of Disturbance Allowances if there is a change in the place of work with the alternative post.
- 7.9 There will be no entitlement to a redundancy payment in the following circumstances where the termination of employment is deemed to end by resignation. These are:
- Where the employee elects to resign at any time during the first four weeks of a trial period
 - Where the employee resigns after successfully completing a trial period and has accepted an appointment to the post
 - Where the employee unreasonably refuses the offer of a trial period or an offer of appointment and resigns before the date on which the redundancy would otherwise have occurred

8. Re-training during trial period

- 8.1 It is unlikely that a vulnerable employee will possess the necessary skills and ability to transfer directly to a different job without an element of re-training being necessary. Reasonable re-training will be offered, however the duration and extent of the re-training will vary according to the circumstances of each individual case. A trial period will therefore be for a minimum period of four weeks, but the actual duration of the initial trial period will be agreed by the Recruiting Manager and the Human Resources Manager and confirmed in writing.

9. Selection Criteria for Redundancy

- 9.1 The Council will determine the numbers to be made redundant in each group of vulnerable employees by reference to
- the number of employees in the group(s) affected.
 - the number of employees in the group(s) who will be required to provide a balance of skills and experience within the remaining workforce which is necessary for the future needs of the service and the Council.
 - Budgetary considerations such as Government spending targets, loss of external grant funding and reductions in capital funding.

There will be full consultation with trade unions at this stage.

- 9.2 The selection process will be undertaken fairly and consistently and will not discriminate on the grounds of age, sex, race, disability, sexual orientation, gender reassignment, religion or belief, marriage and civil partnership and pregnancy and maternity. There are also a number of selection for redundancy reasons which are automatically unfair, such as participation in trade union activities and on maternity related grounds. Care must be taken that selection criteria are applied objectively and supported by detailed documentation. Even though the selection criteria

may be objective, if they are carelessly or mistakenly applied the selection process could be held to be unfair.

- 9.3 The Council reserves the right to choose a method of selection which is appropriate to the redundancy situation and will ensure that the method of selection is agreed with the trade union(s). In circumstances where the job description and/or person specification of the vacant post is significantly different to that of the vulnerable employees, it will be more appropriate to use a recruitment process. This will be based on merit and will measure employees against a person specification reflecting the skills, qualifications and abilities required in the vacant post. Alternatively, where the job description and/or person specification of the vacant post is very similar to that of the vulnerable employees the Council will select employees for redundancy according to suitability, using the criteria and scoring matrix detailed in the Redundancy Selection Framework.

9.4 Weighting

The weightings applied to each criteria are set out below. Details relating to criteria and weightings will be discussed and agreed with the trade union(s) in advance of the redundancy selection process.

Skills, knowledge, qualifications and experience	60%
Flexibility, commitment and attitude	15%
Sickness Absence	15%
Disciplinary Record	10%

- 9.5 The employee(s) who score the lowest total score(s) will be selected for redundancy.
- 9.6 If after taking account of these factors, more than one individual in any redundancy selection group has the same number of assessment points, the Council will give priority retention to any employee who meets the definition of disability as defined in the Equality Act 2010. Following that, discussions will be held with the trade unions in order to determine whether it would be appropriate to use length of continuous local government service, on the basis of "last in, first out" to determine the outcome of the selection process if this can be shown to be non-discriminatory.
- 9.7 The assessment will be carried out by a panel made up of Senior Manager, the appropriate line Manager, a Human Resources Officer and up to two trade union representatives if they wish to attend.
- 9.8 Wherever possible the assessment will be supported by written evidence. The results of the assessment will be given in writing to the employee(s) who will be invited to a meeting with the Service Manager and a Human Resources Officer to discuss the outcome of the assessment.

10. **Time off to look for new work or training**

- 10.1 Employees who have at least two years service and who are under notice of redundancy have a statutory entitlement to a reasonable amount of time off to look for another job or to arrange training. Where appropriate, this facility will also be considered for other employees affected by redundancy.
- 10.2 Additional measures should also be considered in order to help employees under notice of redundancy. Examples of these are:
- Providing financial information to the employee (redundancy pay, pensions payments etc) and signposting employees to the appropriate agencies regarding state benefits.
 - To contact the local Job Centre Plus for assistance with vacancies and training opportunities.
 - Contacting other local employers to enquire about suitable vacancies.
 - Helping employees to complete application forms and to prepare for selection interviews.
 - Giving advice on searching for vacancies.
 - Where necessary, providing a professional counselling service.

June, 1992

Revised, 1995

Amended May 2007

Amended March 2010

Amended October 2010

Revised September 2013

Revised March 2014

Revised February 2017

Redundancy Payments

The Employment Rights Act 1996 provides that an employee must have two years' continuous service with the same employer in order to qualify for a redundancy payment. The Redundancy Payments (Continuity of Employment in Local Government, etc)(Modification) Order 1999 makes it mandatory for local authorities to count continuous service in local government (and with other specified bodies) in calculating redundancy payments up to a maximum of 20 years. Only service with bodies that are specified on the Modification Order will be counted.

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 between age 22 and under age 41 – one week's pay
- For each year of service at age 41 or over – one and a half week's pay

The maximum entitlement is 30 weeks pay.

There is a statutory maximum to the amount of "a week's pay" for statutory redundancy payments but Pendle Council has chosen to operate the discretion, which enables redundancy payments to be based on the employee's actual contracted weekly wage / salary at the time notice is given, where this is higher than the statutory maximum.

Redundancy payments are tax free for the first £30,000.

Withholding Redundancy Payments

If an employee under notice of redundancy accepts an offer of employment from another body specified in the Modification Order, the employee will lose their entitlement to a redundancy payment.

This only applies where the new employer makes the offer of the new job before the end of the old contract and the employment starts within four weeks after the date of the redundancy termination.

The Council will ask all employees eligible for a redundancy payment to give written confirmation that they will not be starting any other employment with an organisation covered by the Modification Order within 4 weeks after the date of the redundancy termination.

An employee may lose their entitlement to a redundancy payment if they leave the Council's employment before the expiry of the notice period without the Council's approval.

REDUNDANCY SELECTION FRAMEWORK

CRITERIA	SOURCE	EVIDENCE	SCORE
1. SKILLS, KNOWLEDGE QUALIFICATIONS AND EXPERIENCE			
This describes the skills, knowledge, qualifications and experience as set out in the person specification in order to effectively deliver the relevant service. Prior to selection, the Service Manager should also identify the types of additional skills which would be relevant and valuable to future service delivery by reference to objective criteria	<ul style="list-style-type: none"> • Person Specification • Service Improvement Plan • Strategic Plan • Sustainable Community Strategy • National / Statutory Provisions 	<ul style="list-style-type: none"> • Performance Management • Interview • File Letters • File Notes • Current Capability Letters / Notes • Manager assessment 	
For each essential criterion:			
Score 10 for fully met, 9 - 1 for partly met and 0 for not met			
1.			
2.			
3.			
4.			
5. etc			
For each desirable criterion:			
Score 5 for fully met, 4 -1 for partly met and 0 for not met			
1.			
2.			
3.			
4.			
5. etc			
Additional skills:			
Possessing all of the additional skills identified for future service delivery – Score 10			
Possessing most (at least 50% but not 100%) of the additional skills identified for future service delivery – Score 5			
Possessing some (up to 50%) of the additional skills identified for future services delivery – Score 3			
Possessing no additional skills for future service delivery – Score 0			

CRITERIA	SOURCE	EVIDENCE	SCORE
2. FLEXIBILITY, COMMITMENT AND ATTITUDE*			
This describes the level of willingness and attitude towards undertaking work and flexibility of approach	Person Specification	Performance Management Interview File Letters File Notes Manager assessment	
1. Very flexible in approach with a positive attitude towards change. Willing to undertake new work and / or development. Contributes significantly beyond the level expected to the Service Area's performance – Score 10			
2. Makes a positive effort to contribute to the Service Area's performance, setting a good example to colleagues and encouraging flexibility in others – Score 6 - 9			
3. Normally co-operative and flexible – Score 5			
4. Can be inflexible or uncooperative with a poor attitude to change and an unwillingness to undertake new work and / or development – Score 0			
* Most employees are expected to be scored at Level 3. Objective evidence of a sustained high level of flexibility/commitment is required for Levels 1 and 2 and vice versa for Level 4.			

CRITERIA	SOURCE	EVIDENCE	SCORE
3. SICKNESS ABSENCE			
This describes whether the Long Term or Short Term Sickness Procedure has been triggered Sickness absence relating to a confirmed disability, maternity or gender reassignment will not be counted		Sickness Records	
1. No absences in a 2 year period – Score 15			
2. Absence below trigger levels – Score 10			
3. Absence has triggered procedure – Score 5			
4. On 1 st warning/caution – Score 3			
5. On 2 nd warning/caution – Score 0.			

CRITERIA	SOURCE	EVIDENCE	SCORE
4. DISCIPLINARY RECORDS			
This describes live, formal warnings which have been issued in accordance with the Council's Disciplinary Procedure within the previous 12 month period.		Disciplinary Records	
1. No disciplinary record - Score 10			
2. Verbal Warning - Score 5			
3. Written Warning - Score 3			
4. Final / Reaffirmed Final Warning - Score 0			

Method

Calculate total possible points per JD / generic JD. Calculate actual score as a percentage of total possible points on each section of the framework. Use the percentage to calculate the number of points per section.

Example

Maximum number of points available from JD - 275

Maximum number of points available from Section 1 – 240

Actual points scored - 200

$200 / 240 = 83\% \times 165 = 137.49$ points

Maximum number of points available from Section 2 – 10

Actual points scored – 5

$5 / 10 = 50\% \times 41.25 = 20.63$ points

Maximum number of points available from Section 3 – 15

Actual points scored – 6

$6 / 15 = 40\% \times 41.25 = 16.50$ points

Maximum number of points available from Section 4 – 10

Actual points scored – 10

$10 / 10 = 100\% \times 27.5 = 27.5$ points

Total points = 202.12

Appeals Against Redundancy Dismissal

The notice of appeal must specify the reasons for appealing the redundancy dismissal:

- Dissatisfaction with the way in which the Council has applied its redundancy selection criteria
- Belief that he/she has been unfairly disadvantaged by the selection criteria
- Not given a fair opportunity to put forward representations

The Human Resources Manager will arrange for the Appeal to be heard within fifteen working days of receipt of the appeal notice, by the Council's Appeals Panel. The Council's Appeals Panel will consist of a minimum of three Elected Members and should reflect the political composition of the Council. (See the separate Procedure for the hearing of appeals against dismissal by the Appeals Panel)

The Chairperson of the Appeals Panel will give the Panel's decision verbally at the Hearing or as soon as reasonably practicable thereafter. This decision will be confirmed in writing within five working days of the Hearing.

If the appeal is allowed the employee will no longer be redundant.

Where an employee is reinstated, their employment will be regarded as continuous service.

The Council's Appeals Panel is the final level of appeal within the Authority.