

# **Kenwyn Parish Council**

## **Redundancy Policy & Procedure**

### **1. INTRODUCTION**

1.1. Kenwyn Parish Council is committed to providing and commissioning excellent services for the resident community of and visitors to the parish. In doing so, it has a duty to use all of its resources efficiently and effectively. As the services themselves and the role and duties of the council will change from time-to-time, so the council will periodically adjust the way in which it is organised and structured.

1.2. As such changes may lead to the Council reducing the number and/or type of staff it employs, it has agreed this policy to ensure that the detrimental effects of redundancy resulting from such changes are minimised as far as possible; and that its actions are in accordance with good practice and comply with employment legislation.

1.3. The policy sets out the steps which will be followed by the Council if it becomes necessary for it to make one or more employees redundant. It does not form part of employees' terms and conditions of employment and may be subject to change by the Council.

### **2. GENERAL PRINCIPLES**

2.1. The Council will:

- Avoid making staff redundant, whenever possible;
- Seek to retain the skills and experience of staff where practicable, avoiding job losses, whenever possible;
- Where job losses are inevitable, manage them fairly, consistently and sympathetically;
- 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;
- Offer assistance to any employee selected for redundancy in seeking suitable alternative employment elsewhere.
- Where redundancies become unavoidable, the Council will seek to keep the number to a minimum. It will do so by, for example:
  - Be open to 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;
  - Consider potential suitable alternative employment, where this may be available within the Council.

### **3. DEFINITION OF REDUNDANCY**

3.1. Under the Employment Rights Act 1996, a redundancy situation occurs 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.

#### **4. CONSULTATION**

4.1. Consultation gives individual employees and their trade union or employee representatives an early opportunity to explore the options available and to suggest ways of avoiding redundancies. It will include discussion on how hardship can be minimised if a redundancy is inevitable.

4.2. Consultation will take place with the appropriate Trade Union(s), employee representatives and employees affected at the earliest possible opportunity in a way that is compliant with statutory requirements. Consultations will be conducted with a view to reaching agreement, but it is possible that consultations may end before agreement is reached.

4.3. Employees and their representatives will be provided with the following information as part of the genuine and meaningful consultation process:

- why one or more redundancies must be made;
- the numbers and type of employees proposed to be dismissed as redundant;
- the total number of employees of that description employed at the Council;
- 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.

4.4. Consultation will consider ways of:

- avoiding the dismissals;
- minimising the number of employees to be dismissed, e.g. by suspending recruitment or through redeployment; and
- mitigating the consequences of dismissal, e.g. support in seeking alternative employment.

4.5. Consultation will last at least 30 calendar days and will be concluded before a final decision is taken and notice of dismissal for redundancy is issued. No public announcement about a redundancy will be made prior to that point. The employee's manager will meet with the employee (more than once if necessary) to explain the basis on which he/she has been provisionally selected for redundancy. The employee will be able to express his/her views and concerns, raise any questions and discuss any alternatives. Finally, a meeting will confirm the outcome of the consultation and whether the individual is to be issued with notice of dismissal.

4.6. Employees have the right to be accompanied at the above meetings by a trade union representative, employee representative or work colleague.

4.7. The Council may also 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.

## **5. ALTERNATIVES TO REDUNDANCY**

5.1. The Council will take all reasonable steps to avoid redundancies and, where they are unavoidable, to keep the number of redundancies to a minimum. Alternative courses of action will be considered in the light of:

- whether any employee wishes to consider voluntary redundancy;
- whether the Council can reduce the number of casual, agency or contract staff; and
- whether alternative work may be available within the Council.

## **6. Voluntary Redundancy**

6.1. To minimise or remove the need for compulsory redundancies, the Council may consider requests from employees for voluntary redundancy. The Council will carefully consider any potential imbalance in the skills and experience of remaining staff which may be created by accepting such a request. The Council reserves the right at its absolute discretion to decline requests for voluntary redundancy.

6.2. Redundancy payments that may be due to an employee who volunteers for redundancy will be calculated in the same way as they would have had the employee been made compulsorily redundant.

## **7. Redeployment**

7.1. The Council will make every reasonable effort to find alternative work within the organisation for any employee who is selected for redundancy. S/he will be informed of any available vacancies at the time of his/her selection and during the notice period. S/he will be given the opportunity to discuss with any potentially suitable vacancies with his/her manager or the Clerk.

7.2. Suitable alternative employment means a post that is substantially the same in relation to pay, status, work base location, duties, work environment and/or working hours.

7.3. If an employee selected for redundancy or if his/her manager or the Clerk identifies a post as being potentially suitable alternative employment, the employee will be assessed for his/her suitability for the position. The employee's skills, knowledge, experience, level of seniority and the terms and conditions of the post will be part of the assessment, which will be carried out by the Clerk and the relevant service manager, or relevant Committee Chairman if a service manager post is being considered.

7.4. The Council reserves the right to make the final decision as to whether or not to offer the employee an alternative 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.

7.5. If a higher-paid position is offered and accepted, the salary for that post will apply.

7.6. Where an employee accepts an alternative position that is lower-paid, the difference between the salary for the lower-paid position and that of the current salary will be the protected amount. The new salary will be enhanced by the protected amount for two years, during which the salary applicable to the new role will be reviewed in the normal way, subject to satisfactory performance. At the end of the year, the protected amount will be removed, and the lower salary will be paid.

7.7. During this period any increments and annual pay awards applicable to the new post will be paid, but the pay protection paid will be reduced by the same amount. If the employee's pay in the new job reaches or exceeds the level of pay protection, the pay protection will be withdrawn entirely.

7.8. For part-time employees, pay protection will apply on an hourly rate basis, with the number of

hours to be pay protected to be equivalent to the contracted hours worked in the post that the employee is moving from.

7.9. An employee who unreasonably refuses an offer of suitable alternative employment will lose his/her right to any statutory or occupational redundancy payment that may be due.

7.10. 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.

## **8. TRIAL PERIODS**

8.1. An employee facing redundancy 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 his/her 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 former contract expires.

8.2. The trial period gives the employee a chance to decide whether the new job is suitable without necessarily losing any right to a redundancy payment; and allows the Council to assess his/her suitability and ensure the required standards will be met, 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.

8.3. The four-week trial period may be extended by mutual agreement for retraining purposes. Any extension will be put in writing by the Clerk, 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, s/he will be deemed to have accepted the new employment and there will be no entitlement to any redundancy pay.

8.4. Should the Council wish to end the contract within the trial period for a reason connected with the new job, the employee will retain the right to any redundancy payment under his/her old contract. If the dismissal is due to a reason unconnected with the redundancy, the employee may lose that entitlement.

8.5. Should the employee terminate the contract during the trial period, s/he 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, s/he will lose any entitlement to a redundancy payment.

## **9. SELECTION CRITERIA FOR REDUNDANCY**

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

9.2. The selection criteria will be applied fairly, consistently and objectively, and will be backed up by evidence and data, where it exists. Such criteria may include

9.2.1. the type and level of skills and knowledge necessary to perform the particular type of work, clearly defined in specific terms;

9.2.2. attendance record over a reasonable period, e.g. two years, taking into account the reasons for and extent of any absences, but excluding absences related to pregnancy, childbirth or disability, as defined in the Equality Act 2010;

9.2.3. formal qualifications, where they are deemed essential for the post;

9.2.4. disciplinary record – reference may be made to the type and level of any current disciplinary warnings.

9.3. 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. Reasonable adjustments to the selection procedure will be made to remove any disadvantage that s/he may otherwise have.

9.4. Individual employees who are provisionally selected for redundancy following the application of the criteria will be informed of the decision and invited to a meeting at which they will be able 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.

## **10. TIME OFF TO SEEK NEW EMPLOYMENT**

10.1. 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 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.

10.2. An employee wishing to make use of this right should discuss it with his/her manager, who will not unreasonably refuse a request. 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.

10.3. The Council may ask other local councils for information on any vacancies which might provide employment opportunities for redundant employees.

10.4. The Clerk or line manager will, as far as is reasonably possible, assist a redundant employee with advice and assistance in job-seeking, completion of application forms, interview skills, etc.

## **11. REDUNDANCY PAYMENT**

11.1. Employees who are dismissed for redundancy and who have a minimum of two years' continuous service in local government 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.

11.2. For each complete year of service, up to a maximum of 20 years, all employees are entitled to one and a half weeks' pay.

11.3. The maximum amount of statutory redundancy pay is £15,240.

11.4. 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).

11.5. Employees who are members of the Local Government Pension Scheme and who are over 50 years of age may also be entitled to immediate payment of their pension benefits, in accordance with the provisions of that Scheme. Where the redundancy involves the Clerk to the Council the full amount of gratuity held in lieu of the pension will be paid out when the redundancy is made. This will be paid together with the redundancy pay.

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

in the new job.

11.7. An employee who is being made redundant must inform the Council if s/he is offered a new position prior to their last day of service.

11.8. If an employee is offered a new position with a local government employer after the last day of service, s/he is entitled to keep a redundancy payment regardless of when s/he takes up that new position. However, s/he will not retain his/her continuous service.

11.9. 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.

11.10. 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.

## **12. TAXATION OF REDUNDANCY PAYMENTS**

12.1. Statutory redundancy payments are expressly exempt from income tax. They will, however, be taken into account in calculating 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.

## **13. APPEALS**

13.1. An employee who feels s/he has been unfairly dismissed by reason of redundancy has a right of appeal. The employee should write to the Clerk/Chairman 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 a panel of three members of the Finance and General Purposes Committee. 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.

13.2. There is no further right of appeal.

## **POLICY REVIEW**

14. The policy will be reviewed every year. Kenwyn Parish Council will also review it after each occasion on which it has been used to ensure that it is fit-for-purpose.

Adopted

Review Date: