



West Yorkshire
Fire & Rescue Service

Early Termination Policy (Green) HRPOL004

OFFICIAL

Ownership: Human Resources

Date Issued: 01/04/2014

Version: 6.2 Status: Final



Revision and Signoff Sheet

Change Record

Date	Author	Version	Comments
25/04/2014	Christine Cooper	1.0	Transferred onto new template
27/05/2015		6.2	

Reviewers

Name	Version Approved	Position	Organisation	Date
Christine Cooper		CHRM	WYFRS	25/04/2014

Distribution

Name	Position	Organisation

Document Properties

Item	Details
Document Title	Early Termination Policy (Green)
Author	Dan Stacey
Creation Date	25 April 2014
Last Updated	15 January 2018

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1 Introduction

This policy has been developed to minimise the need for redundancy and ensure fair treatment where redundancy is inevitable. The policy will also decrease the likelihood of conflict and the possibility of misunderstanding.

Redundancy is defined in section 139 of the Employment Rights Act 1996. For the purposes of this Act, an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to:

- a) the fact that his employer has ceased, or intends to cease
 - i. to carry on the business for the purposes of which the employee was employed by him, or
 - ii. to carry on that business in the place where the employee was so employed,
- b) the fact that the requirements of that business -
 - i. for employees to carry out work of a particular kind, or
 - ii. for employees to carry out work of a particular kind in the place where the employee was employed by the employer have ceased or diminished or are expected to cease or diminish.

Whilst it is West Yorkshire Fire and Rescue Service (WYFRS) intention to develop and provide a reasonable work environment for its employees and maintain job security wherever practicable, it must acknowledge that circumstances may arise where changes may result in the need to reduce the size of the workforce. For example, technological advances, organisational requirements and government policy may require a reduction in certain types of roles.

WYFRS is committed to promoting a positive working environment where the dignity and respect, to which all employees are entitled, is not undermined. No employee should be treated less favourably on the grounds of race, gender or gender reassignment, disability, sexual orientation, religion or spiritual belief, colour, nationality, national or ethnic origin, marital/parental status, family ties, trade union or political belief, hours worked, or any other reason, either directly or indirectly.

2 Redundancies

2.1 Contemplating Redundancies

Where the possibility of a reduction in the size of the workforce arises, management will enter into consultations with the appropriate representative body or bodies with a view to establishing whether the proposed job losses can be achieved by means other than compulsory redundancies.

In these circumstances, WYFRS recognises that consultation with the representative bodies should be in 'good time' and also recognises its statutory obligations in respect of consultation. Consultation will include steps to avoid or, failing that, to minimise compulsory redundancy and will be with a view to reaching an agreement. Wherever possible, consultation regarding the appropriateness of these steps will take place prior to formal notification of a redundancy situation, at the point where a potential redundancy situation is identified.

2.2 Avoiding Redundancies

WYFRS will give consideration to the appropriateness of the following measures on each occasion that a redundancy situation arises:

- Imposing an immediate recruitment ban other than where recruitment is essential, considering redeployment and/or retraining of surplus personnel to other parts of the organisation.
- Natural wastage.
- Restricting the use of and, where necessary, terminating the contracts of subcontracted labour and casual staff.
- Reducing the amount of overtime working.
- Inviting applications for consideration for early retirement and/or voluntary redundancy (please see [Appendix A](#)).
- Considering volunteers for part time working or job sharing.
- Considering suggestions from representative bodies/employee representatives.

2.3 Consultation

WYFRS will provide appropriate representative bodies with relevant information regarding the proposals for redundancy to ensure that they are able to constructively contribute to the process. Information will include:

- Reasons for the proposal.
- Number and categories of employees potentially affected.
- Total number employed in those categories.
- Proposed method of selecting employees who may be made redundant.
- Proposed method of carrying out the dismissals with due regard to any agreed procedure, including the period over which the dismissals are to take effect.
- The proposed method of calculating the amount of any redundancy payments made to employees who may be dismissed.

Once the consultation has taken place and, if following the consultation process, it is still necessary to make redundancies, then the group(s) of staff affected will be notified. They will be provided with details of the criteria adopted to determine selection for redundancies.

WYFRS has a statutory duty to notify the Secretary of State before giving any notice to terminate contracts where 20 or more employees are to be made redundant within a 90 day period. The timescale for consultation is that prescribed by section 188 of the 'Trade Unions and Labour Relations (Consolidation) Act 1992':

- Where fewer than 20 employees are to be made redundant, as much consultation as is reasonably practical will take place.
- For between 20 and 99 employees, a consultation period of 30 days will be provided before giving notice to terminate contracts.
- Where 100 or more employees are to be made redundant, 45 days consultation will ensue before giving notice to terminate contracts.

2.4 Selection of staff to be made redundant

Where WYFRS considers that the need for redundancies remains, after due consideration of other alternatives, management will give written details of their proposals to employee representatives. Wherever possible, WYFRS will attempt to redeploy staff to suitable alternative positions.

Selection criteria appropriate to a particular circumstance will be determined at the time redundancies occur as opposed to defining one approach for all situations. On each occasion WYFRS will seek to utilise criteria which are as fair and objective as possible, and do not discriminate against staff on the grounds of age, sex, sexual orientation, religion or belief, race, disability, trade union membership or part time status.

WYFRS will aim to utilise factors that are measurable and verifiable. This may be achieved through consideration of attendance and disciplinary records, skill levels in terms of qualifications held, competency testing, assessments, individual training records and Personal Development Reviews, and knowledge and expertise.

Staff identified as at risk of redundancy will be informed in writing and be involved in individual consultation. The basis for selection will be explained to every employee involved. WYFRS will consider fully any employee representations before making a final decision on who will be made redundant. All employees will have the right to appeal the decision to be made redundant under the current grievance and disputes procedure.

In the event that an employee who has been selected for redundancy considers that the selection criteria have been unfairly or incorrectly applied, they may request a meeting with the Area Manager (AM) of the appropriate Directorate in order to make representation in this regard. The request must be submitted in writing within ten working days of receiving the letter giving them notice of redundancy. The employee may be accompanied at this meeting by a trade union representative or work colleague. The AM will inform the employee of the decision within ten working days of the meeting.

2.5 Notice Periods

The amount of notice which the employee is entitled to receive is as set out in the individual's terms and conditions of employment.

If an employee under notice of dismissal wishes to leave their job prior to the expiry of their notice period, they must request this in writing to the appropriate AM. If their application is approved this will not invalidate the right to a redundancy payment. Staff will still be deemed to have been dismissed by WYFRS, but on the date of expiry of the employee's notice and not that of the original notice from the organisation. If the application is not approved and the individual resigns before the end of their notice period they will forfeit any redundancy payment due.

2.6 Suitable Alternative Employment

WYFRS will fulfil its statutory obligation to consider employees who are identified as redundant for alternative employment within the organisation. If suitable vacancies are available, redundant individuals will be considered for them.

Where more than one employee may be eligible for a specific, alternative post a selection process will be undertaken in order to determine the most suitable candidate. Individuals who are not appointed will be provided with feedback on the decision made.

To preserve continuity of employment the offer of the suitable alternative post must be made before the redundancy takes effect and will start no later than four weeks after the original post has ended.

If a job offer that is a suitable alternative in terms of pay, grade, job content, status, place of work etc. is made and the employee unreasonably refuses it, there may be no liability to make a redundancy payment.

Where alternative employment is available to employees within WYFRS the following steps will be taken:

- An offer will be made to the individual in writing before current employment ends to start the alternative position within four weeks of the date of redundancy.
- A four week trial period will be given. This may be extended by agreement for the purposes of retraining only, and will:
 - Be in writing and made before the start of the new contract.
 - Set out the date on which the period of retraining will end.
 - Set out the terms and conditions that will apply to the employee at the end of the retraining period.
- If the employee accepts the job, the redundancy dismissal will not take place.
- If the trial period is unsuccessful there will be a return to the pre-trial period situation as if it had not occurred and a redundancy payment will be made.

2.7 The right to time off to seek other employment

Employees under notice of redundancy will be given reasonable paid time off during working hours to seek alternative employment or to arrange training at:

- the date notice expires or
- the date on which statutory notice would have expired.

2.8 Continuous Service

An employee must have two years' continuous service with WYFRS in order to qualify for statutory redundancy payment (at the relevant date of redundancy). In calculating entitlement to, and the amount of, a redundancy payment WYFRS will count all continuous local government service.

The Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999, makes it mandatory for WYFRS to count continuous service in bodies specified within the order in calculating redundancy payments up to a maximum of 20 years.

2.9 Redundancy during Maternity Leave

It is automatically unfair dismissal to select a woman for redundancy solely on the grounds of her pregnancy. WYFRS will ensure that any individual absent from work due to pregnancy or maternity leave will be consulted and kept informed.

Where, after due consideration of other alternatives, WYFRS considers that the need for redundancy remains, the employee who is pregnant or on maternity leave will receive a written statement of the reason for dismissal.

Redundancy during maternity leave will end the contractual obligations to both maternity pay and the right to return. Statutory Maternity Payments will not be affected and continue until the end of the maternity pay period.

Any payments made to an employee in respect of occupational maternity pay will go towards meeting the WYFRS's obligation in respect of notice pay.

2.10 Redundancy Payments

Redundancy payments will be calculated in accordance with contractual terms and statutory provisions in place at the time of the redundancy. The current relevant statutory provisions are based on:

- The employee's age.
- Length of continuous service (maximum of 20 years).

WYFRS have provided an enhanced benefit of utilising the employee's actual weekly wage as opposed to the statutory amount (please visit ww.berr.gov.uk for further information).

Overtime will not be counted in the calculation of a week's wage unless there is a contractual obligation for WYFRS to provide it, and the employee is bound to work it.

The calculation date (for determining a week's pay) for redundancy is the date on which statutory notice starts. The calculation is based on the statutory redundancy calculation i.e.

- 0.5 weeks' pay for each year of service under the age of 22.
- 1.0 weeks' pay for each year of service between and including ages 22 and 41.
- 1.5 weeks' pay for each year of service over the age of 41.

2.11 Discretionary Payments

The tools available to authorities to deal with redundancy and efficiency terminations are contained in the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 and the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006.

2.12 The LGPS (Benefits, Membership and Contributions) Regulations 2007

These regulations provide for the immediate payment of pension benefits if:

- the employee is a member of the Local Government Pension Scheme (LGPS) and has 3 months' membership or has transferred other pension rights into the LGPS; *and*
- the employer certifies retirement is by reason of redundancy or business efficiency; *and*
- the employee is aged 55 or over at the date of leaving.

WYFRS has the discretion under these regulations to augment the employee's membership in the LGPS by granting up to a maximum of 10 extra years (only whilst the employee is still an active member of the LGPS). No payment under the 104 weeks provision (see below) can be made if augmented membership is granted.

WYFRS has the discretion under these regulations to award additional annual LGPS pension up to a maximum additional annual pension of £5,000 (only whilst the employee is still an active member of the LGPS). This power can be exercised even if a payment is to be made under the 104 weeks provision (see below) or augmented LGPS membership is being granted (see above).

2.13 The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

These regulations provide employers, in redundancy and efficiency termination cases, the discretion to pay a lump sum of up to 104 weeks' pay (inclusive of any Redundancy Payment). This power cannot be exercised if augmented LGPS membership is being granted (see above) but can be exercised even if the employer makes an award of additional annual LGPS pension (up to a maximum additional annual pension of £5,000).

The decision to award any discretionary payments as listed in paragraphs above will be exercised by WYFRS. Due to potential financial constraints, there is no guarantee that any discretionary payments will be awarded, with the exception of calculating redundancy pay on the basis of actual weekly earnings.

Where the decision concerns members of the Management Board the discretion will be exercised by Authority Members in the Personnel & Training Committee.

Pay in lieu of notice will only be paid where there is good reason for the employee not to work the notice period. WYFRS will clearly inform the employee when giving pay in lieu of notice.

2.14 Holidays

Employees will be expected to take any outstanding holiday entitlement during the notice period where reasonable and where the needs of WYFRS have been considered i.e. workloads. Where this is not possible an additional payment will be made to cover any pro rata leave entitlement not taken for that

leave year. Equally, if more leave has been taken on a pro rata basis at the date of termination, the final payment will be reduced accordingly.

2.15 Offer of a New Job with Modification Order Bodies

If WYFRS has given an employee notice of redundancy and if, before dismissal takes effect, the employee receives an offer of employment from another body specified in Schedule 1 of the Modification Order 1999, the individual will lose entitlement to a redundancy payment. This only applies where the offer of a new job is made by the relevant body before the end of the old contract and before the new employment starts within four weeks of the date of redundancy.

2.16 Lost Entitlement to a Redundancy Payment

An employee who would normally be entitled to a redundancy payment may lose this entitlement where:

- The employee commits an act of gross misconduct and is dismissed (i.e. an offence of a serious nature).
- The employee leaves early before notice has expired without WYFRS's agreement.
- Six months have elapsed from the relevant date (the date notice expires or, if no notice is given, the date termination takes effect) and no payment has been made unless:
 - The employee has made a written claim for redundancy pay to WYFRS.
 - A claim of unfair dismissal has been lodged with a tribunal (this holds even if the three month time limit for unfair dismissal claims has expired).

The six month time limit only applies to a claim for statutory redundancy payments. If the claim is that a payment should have been made under the contract, the statute of limitation for claims is six years.

All employees have the right to appeal against dismissal for redundancy. To exercise this right, employees must appeal to the appropriate Director. The appeal must be made within ten working days of receipt of the written notice.

An appeal meeting will be arranged within ten working days of having received notification or as soon as is reasonably practicable. The employee has the right to be accompanied at this meeting by a trade union representative or a work colleague who is an employee of WYFRS.

If an appeal results in the decision for redundancy being upheld, then the redundancy notice will continue from the date of when the original notice of redundancy was given.

3 Appendix A - Voluntary Redundancies

If it should become necessary for the employer to consider redundancies, management will notify employees at the earliest possible opportunity of the reason(s) for the potential redundancy situation and its proposals. In this case, the employer will, as an early measure, invite employees to volunteer for redundancy.

Each redundancy situation will be considered on its own merits, however it is likely that invitations to volunteer will be offered to employees in all the functions affected by the proposals, across the roles. At the discretion of management, employees in functions and roles that are not directly affected may also be invited to put themselves forward for voluntary redundancy.

Invitations to volunteer for redundancy will be communicated to the relevant employees by internal letter. The opportunity to volunteer for redundancy will be available for a defined period with the letter clearly stating the closing date for applications. Employees will be required to write to the Corporate Human Resources Manager to confirm that they wish to be considered.

Employees who choose to apply for voluntary redundancy are not guaranteed to have their request accepted. Management reserves absolute discretion to decide whether or not to accept any individual application for redundancy. These decisions will depend upon the WYFRS's need to retain the types of knowledge and skills that are believed to be essential to meet:

- Future organisation aims.
- Maintenance of service delivery.
- The need to retain a balance of people with different skills and experience.
- The overall situation at the time.

Management's decision on whether or not to accept or reject any particular application is final. Where an employee's request for voluntary redundancy is accepted, the employee will be notified of this in writing as soon as possible after the closing date. Thereafter a meeting will be set up with the employee to discuss and agree the timing of their redundancy and to confirm entitlement to notice, final pay and benefits, and redundancy pay.

Employees who volunteer for redundancy will be entitled to redundancy pay as laid out in the same way as employees who are made compulsorily redundant (see above).

At the employer's discretion, employees who volunteer and are accepted for redundancy may be offered a termination settlement that is higher than the level of redundancy pay payable to employees who are selected compulsorily. If this is the case, the employer will publish details of the proposed financial terms that will be offered at the time invitations to volunteer are communicated (see Appendix B).

Employees who volunteer, and are accepted, for redundancy are regarded in law as having been dismissed. Employees who volunteer for redundancy will be required to sign a Settlement Agreement which essentially prevents the employee from making a claim to an Employment Tribunal for unfair dismissal against WYFRS. Employees will be required to seek independent legal advice on the agreement before signing.

4 Appendix B - Guidance on Reduction in Workforce Numbers

4.1 Introduction

In order to implement the reduction in the staffing establishment a process needs to be followed which is logical and well-coordinated. Staff and representative bodies will require timely and adequate information upon which to base their choices and to ensure that all staff are given opportunities to avoid compulsory redundancy where possible.

4.2 Selection

Management Board will determine the overall number of staff at risk of redundancy usually by way of department/unit restructure which meets the financial requirements of WYFRS

The next stage of the process will be to offer early retirement/voluntary severance within Directorates.

4.3 Severance Package for Voluntary Severance

The voluntary severance package is designed to recognise and reward the long service of WYFRS's staff. The enhancements will be applied in two different ways:

- a) Those members of staff who are now subject to National Joint Council for Local Government Services (Green Book) to include previous continuous service with other local government.
- b) Those members of staff who were previously subject to the National Joint Council for Local Authority Fire and Rescue Conditions of Service (Grey Book) where there has been continuous service, i.e. no break of service between Grey and Green book roles.

In terms of staff whose service is entirely Green Book the enhanced rate is capped at 52 weeks' salary, based on : -

- 1 weeks' pay for each year of continuous service up to age 22,
- 1.5 weeks' pay for each year of continuous service between and including ages 22 and 41 and
- 2 weeks' pay for each year of continuous service over the age of 41.

For those members of staff who have had no break in service between Grey Book and Green Book employment, there will be two calculations,

- 1) Green Book service will be calculated as per paragraph 3.2, and
- 2) previous Grey Book service will be dealt with as if it were compulsory severance.

This calculation is based on the employee's age and length of continuous service (maximum 20 years).

- The calculation is based on the statutory redundancy calculation
- 0.5 weeks' pay for each year of service under the age of 22
- 1.0 weeks' pay for each year of service between and including ages 22 and 41
- 1.5 weeks' pay for each year of service over the age of 41.

Requests for voluntary early retirement/redundancy will be accepted only at Management discretion. This decision will be final.

Posts, remaining following Directorate restructures, will be offered on a ring fenced/slotting in basis, to those at risk of redundancy (See [Redeployment Policy](#)) either from a combined redundancy pool or by a pool contained within a Directorate.

4.4 Compulsory Redundancy

Selection for compulsory redundancy will be based on the following criteria and will follow an assessment by Management Board members as to the organisational need for the post:

- I. Assessment of employee's attendance record. Account will be taken of the extent and reasons for periods of absence. (The Bradford factor model). Absences due to disability, pregnancy, maternity, paternity, adoption and parental leave will be discounted.
- II. Assessment of employees conduct and performance records during their employment within the Service.
- III. Assessment of the skills and expertise of the employee, usually using PDR records, with regard to any revised organisational needs following any restructure as referred to above.

4.5 Applying the Criteria

Any compulsory redundancies will be determined following the restructure of units, voluntary severance and redeployment processes.

4.6 Appeals

Appeals against selection for compulsory redundancy, where employees feel that the selection criteria have been unfairly applied, will be heard by a Director who has not been involved in the selection process for redundancy to which the appeal relates. Appeals must be submitted in writing to the Corporate Human Resources Manager within ten days of the date of notice of redundancy. A meeting to hear the appeal will then be arranged within ten days of the receipt of the appeal. Employees have the right to be accompanied by a Trade Union representative or a work colleague at the meeting.

4.7 Re-grading of Posts and Protection

As a result of restructures there may be consequent changes to grades (Green Book staff only) e.g. where a supervisor has no longer any staff to manage their grade maybe reduced. Management will be determining those grades using the parameters of the NJC evaluation scheme but a joint Unison/Management panel will not be used.

It is proposed that protection of current grades should be for a maximum of one year. It is further proposed that there should be no appeals against the re-grading of posts as this is too unwieldy and will prevent timely implementation of new structures.