

# UNISON fighting redundancies in local government



## **UNISON branch guide to redundancy**

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## Redundancy in local government

Since the coalition government began its programme of cuts to public spending in 2010, over half a million local government workers have lost their jobs. Job security is the top priority for our members and they need UNISON's support now more than ever.

In 2020, dealing with the consequences of COVID-19 and subsequent lockdown threw local authorities across the UK into further disarray. UNISON continued to call on the Government for more funding to plug the funding gap caused by lost income and increased spending to manage the crisis.

Many of our members are low-paid women who are already struggling to provide for their families on the small amount of money they earn. They – and many other low-paid UNISON members – often have to manage high levels of debt at home and low morale at work. The pressure of increasing workloads and fear of more job cuts to come are making a bad situation much worse for local government workers.

No one is denying that local authorities are facing hard times, but redundancy is not always the best way to save money. Cutting jobs can have hidden costs for a local authority and means that less money is spent locally. For every £1 spent by a local authority, 64p is reinvested back in the local economy and local government workers spend 52.5p of every £1 in their local community (see APSE 2008, *Creating Resilient Local Economies: Exploring the economic footprint of public services*).

This toolkit gives you the information you need to represent members facing redundancy and help them to challenge their employer's decisions.

If redundancies are being proposed, or if rumours are circulating about them, then many workers beyond those directly affected will be concerned. It is an ideal time to recruit new members, involve members in activity and get new union reps. Above all, branches need to talk to our members – and non-members – and try to respond effectively – in UNISON!

## Redundancy and the law

Branches can protect members' rights by following the legal processes described in this factsheet. Questioning a council's decision-making process can be a useful delaying tactic and can also drive your campaign forward.

You can find more information on redundancy and the law in the Labour Research Department booklet *Redundancy Law: A guide to using the law for union reps*. Please see the *Further information* page to find out how to order a copy. Other sources of legal information can be found throughout the pack, including examples from case law.

Redundancy law in Northern Ireland is controlled by the Northern Ireland Assembly, so there may be some differences, particularly on redundancy pay and consultation periods. You can find more information on redundancy regulations in Northern Ireland on the nidirect website: <https://www.nidirect.gov.uk/information-and-services/redundancy-and-leaving-your-job/redundancy>

### Legal sources

The law below applies to England, Scotland and Wales. Northern Ireland has its own similar legislation. The main legislation governing redundancy includes:

- The Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA)
- The Collective Redundancies and Transfer of Undertakings (Protection of Employment) Regulations 1995 (SI 1995/2587)
- The Employment Rights Act 1996
- The Collective Redundancies and the Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1999 (SI 1999/1925)
- The Collective Redundancies (Amendment) Regulations 2006 (SI 2006/2387)
- The Collective Redundancies (Amendment) Regulations 2014 (SI 2014/16)

### Definition

A genuine redundancy only happens, for the purposes of redundancy pay, when:

- The employer has ceased, or intends to cease, to carry on the business for the purposes of which, or in the place where, the employee was so employed; 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 (or otherwise), has ceased or diminished or are expected to cease or diminish. (Employment Rights Act 1996 s 136)

Redundancy can happen when:

- The workforce is reorganised and there is less work available
- Changes in conditions mean the new job is quite different from the old one
- The business moves to a new location
- An employer puts work out to contract

**The test for redundancy is whether the employer needs fewer (or no) workers to do work of a particular kind, and not just whether the work itself has stopped or reduced.** It is important to be clear because 'making someone redundant' is sometimes used as another way of saying that an employee is being dismissed for some reason other than redundancy.



## Individual and collective consultation

Under the law, employers who decide to make redundancies must consult all affected workers individually. If many staff are at risk of redundancy, employers must also hold a collective consultation with trade union or employee representatives. Employers must allow representatives access to employees affected by proposed redundancies.

Organisations should follow the stages of their own redundancy procedure. As a bare minimum, this should include the stages below and follow the ACAS guidance on handling redundancies. See the advisory booklet Redundancy Handling, at [acas.org.uk](http://acas.org.uk)

Consultation should include:

- The reason for the potential dismissals
- Why and how individuals have been selected
- Possible ways of avoiding redundancy
- Possible alternative work

When more than 20 employees are at risk of redundancy, the employer must consult with a recognised trade union or employee representative. Consultations must finish before the employer can give notice of dismissal to any employees. The length of the consultation, or 'notification' period is different depending on the number of staff at risk:

Fewer than 20 employees	No minimum collective consultation period
20 – 99 employees	Minimum 30 days collective consultation
100 + employees	Minimum 45 days collective consultation

If employers do not consult with staff at risk of redundancy, they might have to pay up to 90 days' salary to each affected employee as compensation.

It is good practice for employers to consult as early as possible, to allow enough time to discuss whether the proposed redundancies actually need to happen. The consultation should happen before any redundancies are announced to the public.

Employers must have meaningful consultation, as well as informing their staff of possible job cuts. Under Section 188 of TULRCA, the employer must give the following information in writing to a trade union or employee representative:

- The reason for the redundancies
- The numbers and descriptions of employees at risk of redundancy
- The total number of employees of any description
- The proposed selection procedure
- The proposed method for carrying out the redundancy dismissals, including timescale
- The proposed method of calculating redundancy pay, if this is more than the statutory minimum

Case law has shown that consultation must be real and not a 'sham'. For example, a local authority had already decided on the number of redundancies it was going to make and made it obvious that it was not going to consider any alternative. It sent redundancy notices by letter half an hour after meeting with the union. This was not genuine consultation (*Middlesbrough BC v T&G and UNISON EAT/26/00*).

You can question the ‘genuineness’ of an employer’s consultation by making a Freedom of Information (FOI) request on the decision-making process, or by using the Information and Consultation of Employees Regulations.

## Selection

In the earlier stages, councils should carefully decide the initial selection pool for redundancy. Unless there is another agreed arrangement, the council should identify the group of employees who may be made redundant at the planning stage. This will usually be those who do the same type of work in a department, or work at a relevant location, or whose work has either stopped or reduced, or is expected to do so. These will be the ‘selection pool’.

Where there is a choice between employees, selection must be based on objective criteria, which may include:

- Length of service
- Attendance records
- Disciplinary records
- Skills, competencies and qualifications
- Work experience
- Performance records

Last in, first out (LIFO) is now seen as a problematic way to choose who will be made redundant. Using LIFO could discriminate against certain employees because of their age, race, gender or disability, if your employer has recently made an effort to hire a more diverse workforce. Case law shows that LIFO can still be used, but it must not be the only way staff are selected for dismissal and the employer must be able to justify why they are using it.

Selection works better when it is based on a points system that scores each employee against fair criteria. But it is important that employers carefully choose the criteria for selection, because it may not always be clear that the criteria affect some staff unfairly. For example, selecting part-time workers for redundancy before full-time workers could be indirectly discriminatory if it affects a high proportion of women.

ACAS points out that “dismissal may also be considered unfair where the reason or principal reason is redundancy but the circumstances apply equally to other employees who have not been selected. Employers need to show that in selecting a particular employee they had compared him or her in relation to the agreed selection criteria with those others who might have been made redundant and that, as a result, it emerged that the employee was fairly selected.”

## Notification

The employer must give the Department for Business, Innovation and Skills at least 45 days written notice if they are making 100 or more workers redundant, and at least 30 days for 20 to 99 employees. The department does not have to be notified for fewer than 20 employees.

## Unfair dismissals

If you believe you have been dismissed from your job unfairly, you may be able to lodge a complaint with a tribunal to get compensation. You must lodge a complaint with the tribunal within three months of the last dismissal. The tribunal only allows a longer period in very exceptional circumstances.

In law, there are some reasons for selecting employees for redundancy which are automatically unfair, including:

- Trade union membership (or non-membership)
- Being an elected employee representative
- Part-time status
- Pregnancy or maternity-related reasons
- Gender, sexual orientation, marital status, disability, race or religion

A dismissal may also be a normal (ie not automatically) unfair dismissal if there is not a genuine reason for redundancy or if the selection criteria are too vague or subjective. And although the reasons for redundancy may be completely fair, it may still be judged unfair on procedural grounds, such as lack of proper consultation.

## Appeals

Employees dismissed because of redundancy must be given the opportunity to appeal the decision.

## Minimum notice period

By law, you're entitled to a minimum notice period of:

- At least one week's notice if you have been employed between one month and two years
- One week's notice for each year if employed between two and 12 years, and
- 12 weeks' notice if employed for 12 years or more

For example, a worker employed for four years is entitled to four week's notice.

## Time off

Employees are entitled to some paid time off to look for work during their final notice period. They are also allowed a reasonable amount of unpaid leave to look for work or go on training.

## TUPE and redundancy

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) protect the rights of employees when the business or service provider that they are employed by is transferred into new ownership, but the nature of the service provided stays the same.

TUPE is a complex subject and cannot be explained fully in this short factsheet. If you need more detailed information on TUPE, please get in touch with your regional office.

TUPE means that when a service provider changes from 'A' to 'B', individuals employed by employer A before the transfer are automatically employed by employer B from the point of transfer. All workers keep the same terms and conditions they had with the first employer.

Under TUPE:

- The new employer cannot terminate the contract of an employee who has been transferred to them, purely on the grounds that they have been transferred
- Workers who transfer to the new employer cannot also receive a redundancy payment
- An employee can refuse to transfer to the new employer, but they might not be eligible to receive a redundancy payment if they do so. Anyone considering a refusal must take advice on this before making a decision.

The original employer must inform employee representatives of transfer of the service to a new employer. The employer must follow proper process, consulting with staff in plenty of time before the transfer.

Sometimes employers try to make staff redundant before a transfer happens. Employers are not allowed to use the transfer as a reason to dismiss staff or change terms and conditions. They can only make staff redundant for a reason connected to the transfer if it is an economical, technical or organisational (ETO) reason, such as:

- It would be economically unsustainable to continue the service without making some staff redundant
- Transferring staff do not have the skills to operate new technology that the new employer has introduced
- There is a reorganisation of the management or organisational structure

Following the transfer, if the redundancies are genuine, workers have a right to a redundancy payment when:

1. The employer is going out of business where the worker is employed
2. The work involved in the role is not needed anymore
3. After the transfer, the new employer is closing its business or the work is no longer needed.

Always think about redundancies in the context of any upcoming TUPE transfer. It is important to make sure that an employer is not trying to make redundancies in order to avoid its obligations under TUPE.



## Changes to TUPE in 2014

The government has introduced some important changes to TUPE legislation, which took effect from 31 Jan 2014:

1. New employers will be able to renegotiate collectively agreed terms one year after the transfer, as long as the overall change does not leave employees worse off.
2. The new employer will only have to adopt the terms agreed between the previous employer and employee representatives up to the date of transfer. Anything agreed after this date will not apply to transferred employees.
3. A change in location of the workforce after a transfer will be allowed as an ETO reason, meaning that this can be used by the new employer as a reason for dismissal.
4. If agreed by the two employers transferring staff, any redundancy consultation that begins before the transfer can count as part of a collective redundancy consultation process with the new employer, as long as it is a meaningful consultation.

For example, if your original employer announces they are making 50 staff redundant and begins the consultation period 10 days before the date of transfer, the new employer can continue the consultation for 20 days to achieve the 30 day minimum consultation period. Please see the *Redundancy and the law* page of this pack for more information on meaningful consultation.

It is essential to think about how these changes will affect your negotiations with employers before and after the transfer.

## Imposition and Redundancy

With the increasing clamour to cut public services, there may be more and more occasions in which employees are asked to take a pay cut in an effort to avoid redundancy. Some employers may even take the drastic step of seeking to impose changes in terms and conditions without the consent of the employee.

The advice in this fact sheet is general and you should always take advice from your branch where an employer is seeking to reduce your terms and conditions with or without your consent.

### **A. Imposition without agreement – breach of contract.**

Generally, if an employer imposes changes upon employees' terms and conditions without the employees consent, they will be acting in breach of contract. In most cases, continued performance by an employee of their contractual duties without protest, after the altered terms and conditions have been imposed, will be deemed to be implied acceptance of the new terms and conditions. Therefore the original breach of contract will have been waived.

Any implied acceptance by members will severely weaken the prospects of bringing successful breach of contract claims. Branches will have therefore been advised to seek immediate advice from their regional organiser if an employer purports to impose such changes.

It is not as simple to say that any variation of a contract, without the consent of the employee, will enable the employee to end the contract and sue for unfair dismissal. The law is more complicated than this and therefore any proposed change should be discussed with your region as a matter of urgency.

### **B. Imposition by dismissal and re-engagement.**

This is probably the most common method of imposing contractual change. Mass dismissals by giving the amount of notice required by the contract of employment, together with an immediate offer of new terms and conditions to facilitate the implementation of the reduced terms and conditions, have been known to occur. We must be on guard to ensure that members' rights are protected in this situation.

It is not always the case that these types of impositions will enable an employee to bring a successful unfair dismissal claim and therefore advice should be sought immediately where we become aware of a dismissal and re-engagement situation.

## Conclusion

The advice in this guidance is necessarily general and in circumstances where reduced terms and conditions are sought to be imposed you should immediately consult with your regional office to ensure that appropriate and effective responses are developed to ensure the protection of our members' rights.

## Best practice redundancy agreement

It is best to agree a formal procedure with your employer well in advance of any potential redundancy situation. This will help to reduce people's fears and will make sure that all staff at risk of redundancy are treated fairly. The Advisory Conciliation and Arbitration Service (ACAS) advises both branches and employers to make sure that they have a procedure in place, which includes at least the main points in the example agreement below.

Unfortunately, there is no guidance on redundancy procedures in the National Joint Council (NJC) agreement, the Green Book, the Scottish Joint Council (SJC) or the Red Book. All agreements have to be negotiated locally. Some individual local authorities have negotiated no compulsory redundancy agreements. Although this is rarely achieved in the current climate, you may wish to consider including this in your negotiations.

The example agreement below is a good starting point for negotiations on each clause, depending on local circumstances. We've also included negotiation points and useful clauses from existing agreements, to help branches negotiate a new agreement or renegotiate elements of an old one. (Unreferenced clauses are from ACAS guidance.)

*Make sure that redundancy agreements are reviewed regularly and that any changes are consulted on. If any part of the agreement is to be applied flexibly when there are 'changing economic circumstances', then the employer should make this clear. **To continue to help us build the library of best practice agreements, please send any redundancy agreements you make to your Regional organiser to add to the Bargaining Information System.***

## An introductory statement of intent towards maintaining job security, wherever practicable

It is the policy of \_\_\_\_\_ council by careful forward planning to ensure as far as possible security of employment for its employees. However, it is recognised that there may be changes in external conditions, organisational requirements and technological developments which may affect staffing needs, amongst others. It is the agreed aim of the council and the trade union(s) to maintain and enhance service delivery in order to safeguard the current and future employment of the council's employees and to provide an efficient and effective service for local residents. The council, in consultation with the trade union(s), will seek to minimise the effect of redundancies through the provision of sufficient time and effort to finding alternative employment for surplus staff. Where compulsory redundancy is inevitable, the council will handle the redundancy in the most fair, consistent and sympathetic manner possible and minimise as far possible any hardship that may be suffered by the employees concerned.

## Details of the consultation arrangements with any trade union or employee representatives

The council will make every effort to keep trade union officials as fully informed as possible, as early as possible, about staffing requirements and any need for redundancies (UNISON).

The consultation will precede any (unannounced) decision to terminate employment on the grounds of redundancy. Consultation will proceed upon the basis of securing agreement from trade unions, on the redundancy and associated proposals, and not be a process of simple information sharing (UNISON).

In order to ensure adequate and effective consultation periods and to heighten the quality of decision making and allay employee anxiety, the council will consult trade union representatives in excess of the statutory minimum consultation periods by \_\_\_\_\_

The statutory requirements are:

- at least 30 days before the first dismissal takes effect if 20 to 99 employees are to be made redundant at one establishment over a period of 90 days or less
- at least 45 days before the first dismissal takes effect if 100 or more employees are to be made redundant at one establishment over a period of 90 days or less (or, the council will offer the maximum consultation regardless of the number of employees affected).

The council will make available all financial and management information relevant to the redundancies, both before and after their announcement (UNISON).

As early in the process as possible, an appointed officer of the council and a representative of the trade unions will act as the central points of contact between the two parties (UNISON).

Local branch offices of trade unions and/or regional officials will be entitled to address the appropriate committee, sub-committee or group of members of the council in order to present their views on the proposed changes if they wish. Any such presentations will be made in private (Tonbridge and Malling Council DC).

The council commits to consider genuinely any alternative proposals with a view to reaching agreement on ways of avoiding dismissals, reducing the number of employees to be dismissed and how to mitigate the effect of the dismissals.

The council will disclose the following, as required by law, at the earliest opportunity:

- the reasons for the proposals
- the numbers and descriptions of employees it is proposed to dismiss as redundant
- the total number of employees of any such description employed at the establishment in question
- the way in which employees will be selected for redundancy
- how the dismissals are to be carried out, including the period over which the dismissals are to take effect
- the method of calculating the amount of redundancy payments to be made to those who are dismissed.

In addition, the council will also consult on, as a minimum:

- arrangements for travel, removal and related expenses where work is accepted on another site owned by the council
- arrangements for reasonable time off with pay to seek alternative work to make arrangement for training
- assistance with job seeking
- arrangements for the transfer of apprenticeships.

The council recognises the right – and encourages all employees who are at risk of redundancy to use the entitlement – to be represented by their trade union rep or a workplace colleague.

Where redundancy proposals affect less than 20 people the Council will consult locally with recognised trade unions (Welwyn Hatfield DC).

Individuals who are at potential risk of redundancy will be invited to a meeting, advised of the situation and given the opportunity to put forward suggestions to avoid or minimise the redundancy situation (Blackburn BC).

## The measures for minimising or avoiding compulsory redundancies

Every effort will be made by the council to reduce the number of possible redundancies. The council will explore, in detail, each of the following alternative mechanisms:

- natural wastage
- restricting recruitment
- reducing the use of agency staff
- retiring all employees at the normal or default retirement age
- retraining and redeployment (see below) to other parts of the organisation
- filling vacancies among existing employees
- reducing or eliminating overtime
- introducing short-term working or temporary layoff (where this is provided for in the contract of employment or by an agreed variation of its terms)
- seeking applicants for early retirement, or voluntary redundancy (see next page)
- terminating the employment of temporary, agency or contract staff

## Redeployment

In practice, no vacancies will be advertised until employees at risk of redundancy have been considered for redeployment into that vacancy.

Suitable alternative employment is defined as a post which provides similar earnings (at levels above or below the employee's present grade – UNISON), has similar status, has similar weekly working hours, has similar or acceptable duties, is within the employee's capability and does not involve unreasonable additional inconvenience to the employee (Salisbury DC).

An employee who refuses any offer of reasonable alternative employment will still be dismissed as redundant but will (not) forfeit (half) their entitlement to a redundancy payment (UNISON – substitute 'not' or 'half' as appropriate after negotiation. The employer has the legal right not to pay any redundancy payment if a reasonable offer of alternative employment is refused – providing the employment offered is a reasonable offer).

Any employee who considers their offer of redeployment is unsuitable has the right of appeal to the Director of Human Resources (or a designated Chief Officer). An appeals form is available for this purpose. The appeal must be set out in writing no later than five working days after notification of the redeployment offer and must set out the grounds for appeal. (Blackburn BC)

*Agreements often follow detailed procedures on the HR process for redeploying staff. These will be relevant to local circumstances and existing procedures/capacity. You can get example procedures by emailing [bsg@unison.co.uk](mailto:bsg@unison.co.uk) Redeployment procedures usually involve an application process, differing processes for*



*redeployment within or out of the service, interviews, skills audits, retraining and trial periods.*

## **Voluntary redundancy**

Consultation will commence with the appropriate trades unions at the earliest opportunity. In defining the categories of employees from whom it is prepared to accept volunteers, the council will apply fair and objective criteria. Applications will then be invited from all relevant employees. A closing date will be applied. (UNISON)

If an employee expresses an interest in accepting this option, he/she should be provided with an estimate of benefits from the finance department. (Falkirk Council)

If enough volunteers are not forthcoming from the defined categories of employees then the council may extend the invitation for volunteers to other areas of the council after consultation with the trade unions. (UNISON)

It may be appropriate to consider whether other employees within the relevant service, other than those identified, should be offered voluntary severance in order to create a vacancy into which displaced employees could be redeployed. (Falkirk Council)

## **General guidance on the selection criteria to be used where redundancy is unavoidable – compulsory redundancies**

*Although unlikely in today's climate, stronger branches may still like to attempt to negotiate a no (compulsory) redundancy guarantee.*

Only after taking the steps above, in meaningful consultation with trade unions at every stage and if the number of employees still exceeds requirements, will employees be selected for redundancy.

The selection criteria will be based upon fair, consistent, objective and non-discriminatory grounds and may include the following:

- self selection – certain posts are clearly identifiable, as that particular work will cease
- standard of work performance – objective evidence must be used to support selection on these grounds. Evidence may be obtained from appraisal and related documentation
- disciplinary record – only current warnings will be taken into account
- attendance record – documentary evidence of above average non-certified sickness absence (not related to a disability), unauthorised absence or poor timekeeping will be required. Valid documentary evidence will include attendance records
- capability and/or potential for adaptability and suitability for retraining for redeployment. Valid documentary evidence will include capability warnings, records of capability related meetings, training records and appraisal documentation
- other measurable and objective criteria appropriate to the particular circumstances as agreed with the relevant trades unions.

It is vital to ensure there is no direct or indirect discrimination in the agreed criteria, which should reflect the requirements of the equality legislation and public sector equality duties. The council is committed to ensuring the equitable implementation

of equal pay and equalities policy and to ensuring that the most able, not necessarily the longest serving, are retained for the efficient delivery of services. The council will not adopt a last in, first out mechanism for selecting employees for redundancy, nor will it consider downgrading staff in their existing roles (either in terms of pay or by reducing the hours of part-time staff). (UNISON)

*Applied properly, the most fair, consistent and objective selection method uses a points system, which scores staff against agreed selection criteria. Example procedures are available by emailing [bsg@unison.co.uk](mailto:bsg@unison.co.uk)*

*UNISON's bargaining information support advises:*

In the past, selection criteria were often quite simple (for example, last in, first out) but now they are often based on a point-scoring system or matrix. The scoring system should be open and fair, and workers are entitled to know their own score, the evidence on which it was based, and to appeal against the score.

Criteria might be skills based – for example, operating certain machinery – or performance based. It is important that criteria are measured objectively. Each factor will be graded – for example, five points for 'consistently exceeds objectives' and one point for 'fails to meet objectives' – and the individual factors may be weighted – for example, standard of work x3, attendance x1. The total number of points for each person then determines who is made redundant.

## **Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006**

*Negotiation point:* The 2006 regulations allow employers to give up to 104 weeks' pay in compensation for early termination of employment.

There are similar provisions in the Scottish LGPS (The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2009).

## **Severance terms**

The number of weeks to be paid, as a minimum, will be based on age and length of service in line with legislation applicable at the time. Please see the Compensation page of this toolkit for further details on statutory severance payments.

The employee can decide whether to take any remaining annual leave during the notice period or receive payment in lieu for each day of remaining annual leave that is not used. The calculation for a day's pay is given below (UNISON):

$$\frac{\text{Annual salary} \times 7}{365 \quad 5}$$

*Negotiation point:* Employers sometimes offer more than the statutory minimum in compensation payments. For example, the Civil Service Compensation Scheme includes the following provisions:

Compulsory redundancy	One month's pay for each year's service, up to a maximum of 12 months
Voluntary redundancy	one month's pay for each year of service, up to a maximum of 21 months
Approved early retirement from age 55 (from age 50 if in the scheme before April 2006)	Pension paid before pension age with reduction for early retirement. Can use compensation payment to buy out the reduction to payments

All staff covered by the Civil Service Compensation Scheme earning less than £23,000 (on a FTE basis) will be treated as if they earn this amount when compensation payments are calculated.

## Notice

Employees who are declared compulsorily redundant will be given notice in line with their contract of employment.

In some cases, after consultation with the trade union officials, it may be necessary in the interests of the operation of the service, for employees not to work during their notice period. Where this occurs individuals will be granted extended leave on full pay (East Dorset DC).

## Appeals procedures

Employees have the right to appeal against dismissal through redundancy.

Employees will be informed of the reasons for their proposed dismissal on the grounds of redundancy, together with the criteria used for selection. The employee will also be given a copy of the company's redundancy procedure and informed of their right to appeal. (Pennine Housing)

An appeal can be based on the grounds that the selection for redundancy was unfair (Hambleton DC) or that adequate consultation was not carried out (UNISON).

The appeal shall be to the Appeals Panel. Employees wishing to appeal must do so within 10 working days of receiving written notification of the offer of alternative employment or notification of selection for redundancy (Hambleton DC).

At any subsequent hearing the employee may be accompanied by a trade union representative. (UNISON)

The outcome of the appeal will be conveyed in writing to the person concerned within five working days of the meeting. (Pennine Housing)

Appeals from employees will be considered and determined by a panel of three heads of service outside of the employee's service area. (UNISON)

Trade unions have the right to appeal to the chief executive when proper consultation mechanisms have not been adhered to as outlined in other parts of this agreement. A written response to all grievances will be provided within a reasonable time scale after due consideration to the facts – within the principle of maintaining harmonious industrial relations. (UNISON)

## Counselling

As a minimum the council will make available the following in a redundancy situation, if requested by the employee:

- financial advice
- guidance on how to find another job
- advice on completing application forms
- guidance on attending interviews

## Assistance to redundant employees

The council will give all reasonable help to staff made compulsorily redundant and this will include:

- reasonable paid time off to look for other work or to arrange for training for new employment
- unpaid time off to undertake training for alternative employment outside of the council
- information on all current vacancies within the council
- estimates of their redundancy pay and, where applicable, their superannuation benefits
- time off with pay to make appointments with:
  - a bona fide financial adviser to discuss investments and income
  - the Benefits Agency to discuss state benefits the local job centre to discuss employment and retraining, including Job Club or similar meetings.
  - the local job centre to discuss employment and retraining, including Job Club or similar meetings.

Employees under notice of redundancy are entitled to reasonable paid time off to look for alternative work or to arrange training for future employment (Hambleton DC).

Employees who have been made compulsorily redundant, including situations where pension has been released, may at any time apply for suitable vacancies which have been advertised externally by the Council (Blackburn BC).

## Equality and redundancy

Under the Equality Act 2010, it is illegal to discriminate against someone because of:

- Gender
- Race
- Disability
- Age
- Sexual orientation
- Gender reassignment
- Religion and belief
- Pregnancy and maternity
- Marriage or civil partnership (related to employment only)

The Public Sector Equality Duty (PSED) applies to all public bodies and private or voluntary sector organisations that are providing a public service. Under the duty, public bodies must consider how to (or 'have due regard' to) eliminate discrimination, advance equality of opportunity and foster good relations in all their policies and practices. The PSED applies in England, Scotland and Wales. There are extra duties in Scotland – please see

<http://www.legislation.gov.uk/ssi/2012/162/contents/made> for more details.

Public bodies must identify the most important equalities issues locally, then work with their local community to gather evidence and set one or more 'equality objectives' – what they will do in order to meet the needs of the PSED. The public body must publish its equality objectives every four years and information on how it has met the duty, including equalities information on staff and service users, each year.

Public bodies must also assess the impact of introducing a new policy or practice on equalities groups. They must consider evidence that relates to the relevant equalities groups in the duty. If they decide to go ahead with the new policy, the public body should also publish the outcome of the assessment.

UNISON activists can use this duty to campaign against redundancies, make sure that members are treated equally and give the union and local community the chance to contribute to proposals.

Some groups of workers are more likely to experience discrimination in redundancy situations, such as disabled, women, Black or young workers. For example, creating a shared services centre in an out-of-town business park with poor transport links may disadvantage disabled staff.

Some groups may suffer multiple discrimination and there may be unexpected impacts. For example, residential care cuts may specifically hit older women as service users. If a proposal could make things worse for some groups, the authority must look for ways to minimise its impact.

### A quick guide to equality impact assessments

UNISON's role is to make sure that employers carry out equality impact assessments, collect and analyse information correctly, and act on it.

#### Data collection

To conduct an equality impact assessment, the authority should look at available data and other information, consult with people directly affected, and ask challenging



questions about the impact of a proposed change. The Green Book contains a sample equality impact assessment at part 4.11, Section 1-6. The Scottish Government publishes all of their equality impact assessments on their website: <https://www.gov.scot/publications/?term=EQIA>

An equality impact assessment should use any available data to examine the impact of redundancies on service users and staff. Major changes may require collecting new or specific data to assess the impact on a variety of issues or workers. A lack of data should not stop an equality impact assessment looking at the possible implications of proposed changes.

**Try to make sure UNISON is represented on the working group carrying out the equality impact assessment, and that the employer publishes the results. Members and service users who may be specifically affected should also be consulted.**

## Assessing the redundancy impact

The main assessment should consider whether the data shows the proposed redundancies will have a more negative impact on one specific group (staff and/or service users) than another. It is important to think about:

### The impact on service users

- Which service users will be affected by any staff cuts? Will any groups be specifically affected? How will this negative impact be reduced?

### The workers at risk

- Is the makeup of the workforce under threat different from the workforce overall? Would redundancies have a negative impact on one group in particular? Have alternative options been compared and considered to minimise any discrimination? Can the selection pool be altered? Do all affected workers have genuinely equal opportunities for retraining or redeployment?

### The selection criteria

- Are the criteria (or the selection matrix) for determining who will be made redundant transparent and fair? It is unlawful to discriminate against fixed-term or part-time workers, and against workers for trade union activities.

## What if the equality duties are ignored?

The Equality and Human Rights Commission can issue a compliance notice on the authority if it fails to comply with an equality duty.

### Equality duties checklist

- Get a copy of the employer's current equalities policy
- Insist that the employer carries out an equality impact assessment of any changes affecting services to the public or terms and conditions of staff
- Get relevant members (women/disabled/Black members) together to discuss how they can get involved in their employer's consultation/ involvement exercise to set or meet their equality outcomes
- Feed back any examples of good practice to share with other branches
- Recruit as many members as possible.

## Jobs, council finances and redundancies

Councils are saying their budgets are under pressure, putting jobs at risk and threatening services.

It's important to have a proactive approach to understanding your council finances. Don't wait until the council is setting the budget – it can be too late, especially if the key financial decisions were made months or years beforehand. Good forward financial planning can identify threats faced by members at an early stage, giving branches more time to influence the final outcome.

This factsheet looks at financial information. It tells you what documents to ask for, what they might tell you, and when to engage.

### What documents should branches ask their employer for?

- the latest medium-term financial strategy
- the budget for the current financial year
- the budget and outturn report for the last financial year
- the latest statement of accounts
- single outcome agreement (Scotland)

### What do these documents tell you?

**Medium-term financial strategy:** Every council now has to have a medium-term financial strategy. In Scotland there will usually be a medium term financial plan linked to the single outcome agreement. The medium term financial strategy will cover a minimum of three years, although some cover longer periods and look forward five or even 10 years. It is usually updated each year.

The strategy should include all the key assumptions about the future that are critical to UNISON members, such as assumptions about inflation, pay and pension contributions and whether jobs might be at risk. There will also be assumptions about the levels of future council tax increases, the cuts and/or savings that the council plans to make, and the contributions to or from reserves. The strategy may also give UNISON earlier notice of plans for privatisation, shared services and PFI schemes.

**This years budget:** This is the detailed budget for this year. It tells you about the expenditure plans, usually by service area, whether the council plans to put money into reserves or is balancing the budget by using reserves, and how much the council expects to get in government grants, business rates and council tax.

**last years budget and actual outturn:** This enables you to compare the detailed plan for last year and what actually happened. For example, it should show you which areas underspent and overspent and whether the council used reserves or put money into reserves.

**Statement of accounts:** The statement of accounts is published each year. It is the official set of accounts for the council. It will provide details of:

- the accounting policies
- the income and expenditure account – the notes to the accounts or a separate explanation may provide more details

- a statement of the movement on the general fund balances
- details of the movements in statutory reserves, reserves needed to comply with proper accounting practices and earmarked reserves
- a statement of the capital reserves, including details of the level of usable capital receipts – these are capital receipts available to finance new capital expenditure
- details of any provisions – a provision is an amount set aside in one year for liabilities or losses which are likely or certain to be incurred, but the amounts or the dates on which they will arise are uncertain
- details of the collection fund account – this is a statutory account for billing authorities. It shows the transactions of the billing authority in relation to non-domestic rates and council tax, and how sums have been distributed to preceptors and the council's own general fund
- details of the direct services trading accounts and whether each traded at a surplus or deficit
- details of the housing revenue account – local authorities which have retained their housing stock are required to maintain a separate account – the housing revenue account – which sets out the expenditure and income arising from the provision of housing. Other services are charged to the general fund
- details of associated company interests and holdings. Some councils maintain investments and/or interests in companies. These are usually listed in a note to the accounts
- details of the Local Government Pension Scheme
- the number of employees whose remuneration (excluding pension contributions) was £50,000 or more – set out in bands of £10,000
- the total amount of members' allowances paid in the year ending 31 March

### Single outcome agreement (Scotland)

Every Scottish Council has a single outcome agreement negotiated with the Scottish Government. This agreement outlines the strategic outcomes the council is committed to achieving in return for Scottish Government grants. Redundancy proposals should be checked against this agreement to identify any inconsistency. For example redundancy proposals for nursery nurses may be incompatible with a single outcome to expand early years provision. For more details on the separate Scottish local government financial systems and how to analyse them consult the UNISON Scotland local government cuts toolkit at:

<http://www.unison-scotland.org.uk/localgovt/LGcampaignpack.pdf>

### When to engage?

The medium-term financial strategy should be a regular item on the agenda of the joint negotiating body. Where possible, branches will want to discuss the proposed strategy before the council adopts it. That way, there should be fewer surprises!

### Suggestions for negotiators

- Make it standard practice for the council to supply UNISON with a copy of the draft and final medium-term financial strategy, the statement of accounts, the draft and final budget for the following financial year and the budget and outturn report for the previous financial year
- identify when in the financial cycle councillors usually agree the medium-term financial strategy and which body agrees it (different councils adopt different approaches)

- seek formal consultation on the proposed medium-term financial strategy before it is agreed by the council
- place the medium-term financial strategy on the agenda of the joint trade union/ employer negotiating body at the most appropriate time
- negotiate a ‘no compulsory redundancy’ agreement if one does not exist
- review the council’s current redundancy policy – and improve it where possible

## Compensation

All employees who have worked for the same or an associated employer for two years or more are entitled to statutory redundancy pay, regardless of the hours they work each week. This is the minimum that workers should receive, but employers can provide more. How much money a worker receives depends on their age and how long they've worked for the employer.

You can use the following calculations to work out how much money each member is entitled to:

- 0.5 week's pay for each full year of service where the age of the member during the year is less than 22
- 1 week's pay for each full year of service where the age of the member during the year is 22 or above, but less than 41
- 1.5 weeks' pay for each full year of service where the age of the member during the year is 41+

There is a maximum figure for a week's pay that will be revised in April each year. For 2020, weekly pay is capped at £538. For 2019, weekly pay is capped at £525. A maximum of 20 years' employment will be included in the calculation.

For example:

- If you are 25 with seven years of service, you will be entitled to five weeks' redundancy pay. The entitlement is based on 0.5 week's pay for each completed year of service between age 18 and 22 and one week's pay for each completed year of service between age 22 and 25
- If you are 38 years old and have 12 years of service, you will be entitled to 12 weeks' redundancy pay. The 12 weeks is based on one week's pay for each completed year of service between age 26 and 38
- If you are 49 years old and have 15 years of service, you will be entitled to 19 weeks' redundancy pay. The 19 weeks entitlement is based on one week's pay for each completed year of service between age 34 and 41 and 1.5 weeks' pay for each completed year of service between age 41 and 49

## Enhanced redundancy pay

Many local authorities have a more generous policy than the statutory minimum and it is up to them as an employer to decide if and how they enhance redundancy pay. So it is essential that you develop a strong negotiating position and agree on an enhanced redundancy pay policy with your employer as early as possible, before redundancies are announced. There are three ways that an employer can increase the redundancy payment for employees:

### 1. Entitlement – who the discretion is applied to

Your employer can calculate enhanced redundancy payments using both age and length of service. This can be paid to all employees, including those with less than two years of service, or only to those employees with two or more years of service.

### 2. Multipliers

The employer can decide to multiply the number of week's pay by the same multiplier for each group.

For example, if the multiplier is 3 the number of weeks are trebled, so the payments would be:



- 1.5 weeks' pay for each full year of service where the member's age during the year is less than 22
- 3 weeks' pay for each full year of service where the member was aged between 22 and 41
- 4.5 weeks' pay for each full year of service where the member's age during the year is 41+

The maximum a worker can receive is 104 weeks' pay.

### 3. Increasing the 'maximum'

The employer can base a week's pay on the statutory maximum or any figure between the statutory maximum and the actual week's pay.

## Branch Action

What can you do?

- ask for a copy of the employer's policy for awarding compensation on redundancy or retirement in the interests of efficiency of the service
- ask for details of when the employer last reviewed these policies
- consider whether you need to start negotiations to improve one or both policies – now!

## Redundancy and the local government pension scheme (LGPS)

This factsheet explains the pension rights of LGPS members facing redundancy and aims to summarise key issues for negotiators. All references to redundancy apply equally to taking retirement ‘in the interests of business efficiency’. There are similar terms for local government workers in Northern Ireland, under the Local Government Pension Scheme for Northern Ireland (LGPS (NI)). For more information, please visit the Northern Ireland Local Government Officer’s Superannuation Committee’s (NILGOSC) website: <https://www.nilgosc.org.uk>

### Basic entitlement

All LGPS members in the UK with over 2 years membership and over the minimum pension age must draw their pension benefits if they have been made redundant immediately.

The minimum pension age in England and Wales is 55. The minimum pension age in Scotland is also 55. However, if a person is a member of the 1998 scheme in Scotland and was paying into LGPS on or before 5 April 2006, then the minimum pension age in redundancy cases is 50.

### Service enhancements

The Government is planning to introduce new legislation that will cap the total severance package payable to workers taking redundancy to £95,000. It is expected to come into force by the end of 2020. This will mean that long serving members and/or members on higher pay may have their immediate pensions reduced, based on how much the cap is exceeded.

The employer can also decide to pay the local LGPS fund to award workers extra pension. There are similar terms for local government workers in Northern Ireland under the Local Government Pension Scheme for Northern Ireland (LGPS (NI)). For more information, please visit the Northern Ireland Local Government Officer’s Superannuation Committee’s (NILGOSC) website: <https://www.nilgosc.org.uk/>

Please contact the pensions team for further advice at **P165876@unison.co.uk**

### Employer’s policy statements

By law, employing authorities in England, Wales and Scotland must publish a statement of their policy on service enhancements, including increasing pensionable service and increasing pension payments. These statements must be kept under review.

### Redundancy and pension rights in other pension schemes

Pension rights on redundancy in trust-based occupation pension schemes, which are similar to the LGPS, depend on the rules of that scheme. Early payment of unreduced pension benefits for members over the minimum pension age are possible in other schemes, but extra payments through service enhancements are unlikely. If members are part of a different scheme to LGPS, it is important to check that scheme’s rules to figure out what they might be entitled to if made redundant.

In contract-based pension schemes, usually stakeholder or personal pension

schemes, it's unlikely that the pension contract terms will provide any redundancy protection, although the actual employment contract may have some protections in place. An individual can draw their pension early if they are made redundant, as long as they are over the minimum pension age of 55.

Members should be encouraged to contact their employer's pension departments and website for more information. UNISON members can also send any pensions queries to the email address **P165876@unison.co.uk**.

## Redundancy and the community and voluntary sector

Don't overlook the community and voluntary sector when you're developing your campaign strategy – transfers, cost cutting and redundancies could be taking place. This factsheet explains what to look out for, and what you can do to protect members.

### Transfers

Local authorities may try to cut costs by transferring work previously done in-house to the community and voluntary sector. In these circumstances the local authority will usually say that instead of direct provision it will make a grant to a voluntary organisation or enter into a contract to provide services.

You need to ensure that:

- The Best Value Statutory Guidance (for England and Wales) or the Section 52 code (For Scotland) is applied
- The voluntary sector organisation has 'admitted body status' to the Local Government Pension Scheme and that members are able to remain in the LGPS
- There is a binding commitment on the local authority to meet extra pension costs stemming from future actuarial reviews of the LGPS
- Funding or any grant or contractual arrangements fully fund the service, take inflation into account and include proper provision for pension contributions and future pay awards (often voluntary sector organisations will submit budgets that fail to properly take account of inflation or include proper provision for pension contributions)

### Cost-cutting

Local authorities may try to save money by reducing what they spend with the voluntary and community sector – either by ceasing to renew contracts or entering into new and cheaper contracts.

#### What can you do?

- Consult UNISON representatives from the community and voluntary sector and involve them in developing branch strategy
- Seek budget provision to achieve parity with NJC pay and conditions
- Ensure local authorities review their policies and take a 'fully funded' approach to the community and voluntary sector
- Ensure your local authority has a strategy for sustainable funding for the community and voluntary sector so that organisations aren't reliant on short-term funding arrangements
- Where redundancies are proposed, ensure all staff are treated the same, whether or not they are directly employed by the local authority

### Redundancies

Some community and voluntary sector employers are themselves proposing to make people redundant. In these circumstances, branches will want to:

- Lobby funders (usually the local authority or primary care trust) to fund services better so as to avoid job losses

- Find out what cash reserves the voluntary sector organisation has – can some of this be used to avoid redundancies without threatening the stability of organisation?
- Talk to members – they often have a much better idea than management about the best way to restructure. Maybe they can make counter-proposals?
- Recruit and organise



## Redundancies in schools

The general redundancy advice in this toolkit applies equally to schools as to any other employer. This factsheet looks at some of the specific issues for branches dealing with potential redundancies in schools in England.

The way redundancies are handled depends on the type of school the staff are employed in. School support staff in community schools are local authority employees and are covered by local authority agreements. Staff in academies or other self-governing schools are likely to be covered by separate arrangements.

School staff in Wales and Northern Ireland are part of the NJC and are covered by local authority redundancy agreements. School staff in Scotland are covered by the Scottish Joint Council; schools are administered by local councils and there is separate legislation on school closures and financial support for special needs.

### School funding and budgets: Section 52 statements

Under Section 52 of the *School Standards and Framework Act 1998*, local authorities are required to publish a summary of all actual and budgeted expenditure on education.

This can be useful when fighting redundancies and closures – it includes financial information such as the level of reserves on a school-by-school basis. Information will normally be published on the authority website and is also available on request.

### Staff: pupil ratios

Some schools may think it's easier to make support staff redundant than teachers. UNISON believes redundancy criteria must not discriminate against different groups of staff. Any criteria need to be fair and transparent. Branches should oppose criteria that unfairly impact on support staff.

Schools may claim they have a legitimate business case to make support staff redundant, because they need to maintain teacher/pupil ratios and maximum class sizes. Use the Section 52 statements (in England) and other budgetary information to see if this is genuinely the case and challenge if necessary. In nursery settings, staff/pupil ratios also refer to qualified early years staff.

### Employment linked to a specific child

Some staff such as special educational needs assistants, may have employment contracts linked to the care of a particular child. This can lead to redundancy when that child leaves the school. UNISON discourages this practice. However, if members are being made redundant for this reason, branches should seek to reach agreement on redeployment across schools in the authority/multi-academy trust and/or pooling arrangements, where a pool of staff can be deployed if a child needs support.

### Falling school rolls

Schools are funded on a per pupil basis, so where the number of pupils in the school is falling, this will obviously impact on the school's budget.

Staff are entitled to TUPE protection if a school merges with another due to falling rolls. They are not necessarily entitled to undertake the same role in the new school.

### Calculating redundancy pay for term-time workers

When determining what is meant by a week's pay in calculating redundancy pay for term-time workers, employers must use the actual amount earned for a week's work

as the basis for redundancy pay, not a worker's annual salary divided by 52 (which would be lower). An employment appeal tribunal ruled that the higher amount should be used as the basis for calculating redundancy pay (*Gilbert and others v Barnsley MBC*, EAT/674/00).

## **School closures, change of status and TUPE**

If a school is closed by the local authority, the secretary of state or government department and then reopens as a new school, existing staff should be re-employed. Both TUPE and rights acquired through continuity of employment should apply.

The right to maintain pay and conditions where schools close or change status is set out in *The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013*. You can download the regulations at [http://www.legislation.gov.uk/ukxi/2013/3110/pdfs/ukxi\\_20133110\\_en.pdf](http://www.legislation.gov.uk/ukxi/2013/3110/pdfs/ukxi_20133110_en.pdf).

However, the guidance and legal position is not always straightforward – branches must seek advice from UNISON Education. Please contact [education@unison.co.uk](mailto:education@unison.co.uk) for further information.

## **Get parents involved**

Local schools are at the heart of every community – there is normally keen public support for keeping them open. Try to involve parents and children in your campaign.

## **Staff employed by more than one school**

Where staff are employed in more than one school, the board of one of the schools can be delegated to act as the employer. Ending employment at one school should not normally affect employment at the other school(s).

## **Right to appeal**

School staff have a right to appeal to the board of governors against a decision to make them redundant. The appeal should be heard by a panel of governors, none of whom should have been involved in the original redundancy decision.

## **School staffing legislation (England)**

While many of the general issues are similar across the UK, England has separate legislation relating to appointing and dismissing school staff. The DfE produces a helpful guide: *Guidance on managing staff employment in schools*: <https://www.gov.uk/government/publications/managing-staff-employment-in-schools>

## **Appointing and dismissing staff**

Community school staff are local authority employees. However, they are generally appointed by the school's head teacher or governing body through delegated powers. This can have implications for redundancy and the advice and support we give members.

In community schools, the head teacher or governing body has the power to decide on redundancies, including selection criteria. However, as staff are employees of the local authority, there should be opportunities for redeployment within the authority, and schools are obliged to consult with the local authority before dismissing staff.

UNISON strongly recommends that branches have a model agreement that covers redundancies and redeployment in schools. This means that fair and transparent

criteria can be applied and there is co-operation between schools and the local authority.

The regulations governing the appointment of school staff are in the School Staffing (England) Regulations 2009. You can download the regulations at <http://www.legislation.gov.uk/ukxi/2009/2680/contents/made>

## Self-governing schools

In trust, foundation and voluntary-aided schools, the school usually acts as the employer (unless a member of staff is employed directly by the authority to work in the school). This means staff made redundant will not necessarily have the opportunity for redeployment in another school. However, in many authorities, schools have entered into voluntary agreements that allow staff to be redeployed within the authority.

Branches should seek to ensure that any redundancy agreement includes all self-governing schools.

## Academies and free schools

Staff in academies (which include free schools, studio schools and university technical colleges) are employed directly by the school and not by the local authority. In multi-academy trusts, staff are usually employed by the trust rather than the individual school. UNISON holds national recognition with the largest multi-academy trusts so please contact [education@unison.co.uk](mailto:education@unison.co.uk) if the school in question is part of a larger chain.

Academies have the ability to set their own pay and conditions for all staff and make staff redundant. Support staff made redundant in these schools are unlikely to have the opportunity for redeployment within their local authority, but may be redeployed elsewhere within the trust. For more information on negotiating with academy employers, please contact [\*\*education@unison.co.uk\*\*](mailto:education@unison.co.uk)

## School meals staff

The School Staffing Regulations state that the local authority is responsible for the appointment and dismissal of school meals staff in maintained schools and is therefore responsible for determining redundancy criteria. The local authority must consult with the school where the staff member works before making any decisions about redundancies.

## Alternatives to redundancy

Redundancy is one of the most traumatic things that can happen to a worker – and dealing with widespread compulsory redundancies is the worst case scenario for any branch.

When negotiating, there are many alternative measures you can suggest to avoid or limit the damage of compulsory redundancies.

Timing is very important. Start talking about alternative options to redundancy – both with members and as part of your negotiations – as early as possible.

The alternatives available will vary depending on the size of the employer and the services it provides.

Alternatives you could suggest include:

- Natural wastage – not replacing staff who leave
- Freezing recruitment
- Eliminating vacant posts
- Voluntary redundancy
- ‘Letting go’ of agency staff and consultants
- Stopping or reducing overtime
- Offering early retirement (subject to age discrimination issues)
- Retraining
- Work sharing – reducing hours (though this could be unfair on part-timers)
- Redeploying staff to other areas
- Offering existing employees sabbaticals and secondments
- Using local supply chains to maximise savings without staff cuts.

## Redeployment

Employers must consider suitable alternative work for workers at risk of redundancy, and they are expected to look for it throughout the organisation. The law removes entitlement to a statutory redundancy payment if an employee unreasonably refuses a suitable alternative.

## Training

Union learning representatives should act as the first point of contact for members, supporting people to access education and training opportunities. The employer should also provide opportunities for workers to retrain and move within existing roles, and offer advice and guidance if workers are made redundant.

Encourage employers to consider apprenticeships as a way of retraining staff. Schemes can be for workers of any age.

## Voluntary redundancy

Although it is better to negotiate alternatives to redundancy that result in no job losses at all, negotiating a voluntary redundancy package may prevent compulsory redundancies when some staff losses are unavoidable.

Taking voluntary redundancy may be a reasonable option for some workers if the employer offers an attractive voluntary redundancy package, which is often more than compulsory redundancy payments.

However, it is important to advise members considering voluntary redundancy to confirm exactly how much they would receive from their employer. If the member has payment or income protection insurance, then it is also very important that members check that they will still be covered if they take voluntary redundancy.

### **The cost of redundancy to employers**

The precise cost of making a worker redundant depends on the specific circumstances of individual organisations. But the Chartered Institute of Personnel Development estimated that in 2009, the direct cost to an employer ranged from £10,575 for each worker (when they are not replaced afterwards) to £15,242 (if they are replaced by new workers), with even more costs if new staff need training.

There are indirect costs too, such as higher staff turnover, lost output, and the impact of redundancies on the morale of workers who keep their jobs.

We expect that the costs of redundancy have increased significantly for local authorities since the government's introduction of austerity measures in 2010.

### **Savings suggestions**

This guide includes a form for you to give to members so they can suggest ways to cut costs without cutting jobs. This could throw up some good ideas and will help you to involve members in your campaign.

## Savings suggestions

Name (optional):

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Service area:

---

Ideas for saving money (non-staffing):

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Further information to explain the idea:

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Please note the sender of this information will remain anonymous to management.  
Please send your replies back by:

Please return to, 'UNISON Private & Confidential':

Many thanks

UNISON

## How to make a freedom of information (FOI) request

You need to be fully informed to protect members. You can use FOI requests to get information relevant to the redundancy process that you can use to your advantage in negotiations, such as financial information or details of the consultation. This factsheet explains your rights under the Freedom of Information Act(s).

### The Freedom of Information Acts

The Freedom of Information Act 2000 applies to all information held by public authorities. (slightly improved conditions apply to Scotland under the Freedom of Information (Scotland) Act 2002).

It allows access to recorded information. This means you can have access to information held by public authorities or information that is held on their behalf.

### Before making your information request

Many local authorities already make a lot of information available, so ask for it or check to see if it's available. If you can already get hold of it, the council isn't obliged to deal with your request.

### Who can request information under FOI?

Anyone can request information under the act regardless of age, nationality or location.

### How do I make a request?

Include:

- your name
- a description of the information you want
- any preferences for the format for receiving the information.  
(you don't have to say why you want the information)

### What happens when I make a request?

When a council receives a request for information it has to respond promptly within 20 working days. The council will consider your request and let you know if it can provide the information requested, or explain why it can't. If the council does not respond within 20 working days, write them a reminder letter. If the council still does not respond, you can refer the request to an information commissioner who will take appropriate action.

### What does it cost?

If the requested information costs more than £450 (£600 in Scotland), the council is allowed to charge for it. If the cost of meeting the request exceeds the appropriate limit in the regulations, they are not obliged to meet the request. Many councils also reserve the right to charge for disbursements, such as photocopying and postage.



## What happens if my request is refused?

A request for information may only be refused if:

- it is vexatious or repeated
- if the council has asked for more information in order to meet the request and it has not been provided
- if it falls under one of the exemptions (for instance, confidential information on named individuals).

If your request is refused, the council should explain why and give you details of how to apply for an internal review of the decision. If, after an internal review, the council still refuses your request, you can ask an information commissioner to review the decision.

For more details please see the comprehensive UNISON guidance: Negotiating and Campaigning with the Freedom of Information Acts (Scotland and UK), located at **<https://www.unison.org.uk/catalogue/15007>**

## Useful letters



*Template letter to employer about consultation: please delete/edit as appropriate*

Dear

**Re: Proposed Redundancies at**

I am writing to you in my capacity as a representative of UNISON.

UNISON has become aware that you may be considering a round of redundancies, which could affect our members. As the employer, you are obliged to consult with recognised trade unions when you are proposing to make 20 or more employees redundant within a 90-day period.

We urge you to begin a consultation with us as soon as possible on the proposed redundancies. As you will be aware, you are required by law to consult with a recognised union for a minimum period, depending on the number of staff at risk of redundancy. When 20 to 99 redundancies are proposed, the consultation period must last for a minimum of 30 days. When 100 or more redundancies are proposed, the consultation must last for a minimum of 45 days.

The consultation must include discussions on how to:

- a. avoid the dismissals,
- b. reduce the number of employees to be dismissed,
- c. mitigate the consequences of the dismissals.

In addition to the issues above, we wish to discuss whether you have carried out an evaluation of the proposed redundancies on the local economy.

We must have an open and meaningful consultation at every stage of the process, with a view to reaching an agreement. If you do not consult with your own workforce on redundancy proposals, we expect a published and reasoned response for this position.

You are also obliged by law to provide us with the following information:

- a. the reasons for the proposals
- b. the numbers and descriptions of employees whom you propose to make redundant
- c. the total number of employees of any description
- d. the proposed selection method
- e. a proposal for how the redundancy dismissals will be carried out, including the timescale
- f. the proposed method of calculating redundancy payments if it is more than the statutory minimum.

This information must be sent to us as soon as possible.

A failure to consult and provide information to a relevant union can lead to penalties imposed by an employment tribunal. UNISON takes the obligation to consult very seriously and we will take steps to enforce our members' rights if necessary.

I look forward to hearing from you soon.

Yours sincerely

*Template letter to employer about equality impact assessments: please delete/edit as appropriate*

Dear

**Re: Redundancy proposal: Equality impact assessment.**

I am writing to you in my capacity as a representative of UNISON.

UNISON has become aware that you may be considering a round of redundancies, which could affect our members.

As a public authority, you are obliged to ensure that any proposed policy and employment changes do not have a negative impact on equality in the workplace. It is important that you conduct an equality impact assessment of these proposed redundancies, in order to meet your duty to have 'due regard' to eliminating discrimination under the Equality Act 2010.

On behalf of our members, UNISON seeks your commitment to undertaking an equality impact assessment on these proposals. We would also welcome the opportunity to consult with you on this assessment, to ensure that the proposal does not discriminate against any staff at risk of redundancy or negatively affect staff from protected equalities groups.

Yours sincerely

## Further information

- ACAS (2020) Redundancy  
[acas.org.uk/index.aspx?articleid=747](https://www.acas.org.uk/index.aspx?articleid=747)
- CIPD (2019) Redundancy  
[cipd.co.uk/subjects/emplaw/redundancy/redundancy.htm](https://www.cipd.co.uk/subjects/emplaw/redundancy/redundancy.htm)
- LGA (2013) Employer's e-guide - Redundancy: the 39 steps  
<https://www.local.gov.uk/sites/default/files/documents/employers-e-guide-number--793.pdf>
- LRD (2019) Redundancy Law: A guide to using the law for union reps  
Available to order online at  
<http://www.lrdpublications.org.uk/publications.php?pub=BK&iss=1998>  
or through the Labour Research Department  
(Tel: 020 7928 3649 or Email: [info@lrd.org.uk](mailto:info@lrd.org.uk))
- UNISON (2015) Collective Redundancies Factsheet  
<https://www.unison.org.uk/content/uploads/2015/09/TACKLING-COLLECTIVE-REDUNDANCIES.pdf>
- UNISON (2016) Save Our Local Services: Campaigning against local cuts toolkit  
[https://www.unison.org.uk/content/uploads/2016/08/23797\\_Save\\_our\\_local\\_services\\_toolkit-3.pdf](https://www.unison.org.uk/content/uploads/2016/08/23797_Save_our_local_services_toolkit-3.pdf)

Reports on local UNISON agreements held in the Bargaining Information System database are available from your regional officer or from the bargaining support group at:

Unison Centre, 130 Euston Road, London NW1 2AY  
Tel: 0800 0 857 857  
Email: [bsg@unison.co.uk](mailto:bsg@unison.co.uk)

To continue to help us build the library of agreements, please send any agreements you make to your regional officer to add to the Bargaining Information System.