Redundancy and redeployment code (FRS and Control staff)

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Contents

1 Introduction .................................................................................................................................................. 2
2 Information and consultation ..................................................................................................................... 2
3 Process ..................................................................................................................................................... 2
4 Assimilation ............................................................................................................................................ 2
5 Redeployment ....................................................................................................................................... 3
6 Pay protection ....................................................................................................................................... 3
7 Termination of employment on the grounds of redundancy ................................................................. 3
8 Redundancy terms .................................................................................................................................. 4
9 Appeals process .................................................................................................................................... 4
10 Amendment or termination of Code .................................................................................................... 4

Appendix 1 - Management guidance ........................................................................................................ 5
Appendix 2 - Statutory severance scheme – ready reckoner ..................................................................... 9

Document history ........................................................................................................................................ 10
1 Introduction

1.1 This code applies to all FRS and control staff within the LFEPA with effect from 1 August 2007.

1.2 It is the policy of the LFEPA, so far as is practicable, to maintain security of employment for its employees, and to minimise compulsory redundancies. Measures that may be taken to minimise compulsory redundancies include:
   • Implementing a recruitment freeze on relevant posts.
   • Reducing or restricting the use of agency/temporary staff.
   • Reducing or ceasing overtime.

2 Information and consultation

2.1 Information will be provided to, and consultation will take place with, the recognised trade unions over proposed redundancies at the earliest opportunity and in accordance with statutory requirements. Information provided for the purpose of consultation will include the reasons for the proposals; the numbers and descriptions of employees likely to be affected; the procedure for selecting those employees who will be made redundant; the timescales and proposed redundancy arrangements; and the proposed method of calculating any redundancy payments.

2.2 Consultation will also take place with individuals who are at risk of redundancy at the earliest opportunity.

3 Process

3.1 A redundancy situation will arise where the requirement for employees to carry out work of a particular kind at a particular location, has ceased, or diminished, or is expected to cease or diminish.

3.2 When a redundancy situation has arisen, employees may be in one of the following three categories:
   (a) There is a post that the employee can be directly assimilated into (for example, in a new structure).
   (b) There is no post the employee can be assimilated into.
   (c) There is a post the employee can be assimilated into, however there are more employees with assimilation rights than posts. In this situation there will be a selection exercise to determine who can be assimilated and who is potentially redundant.

4 Assimilation

4.1 For an employee to have assimilation rights to a post, the new post must be substantially similar to their existing post, and normally either at the same grade, or one lower (in which case the pay protection provisions apply, see paragraph 6.1). In exceptional circumstances an employee may have direct assimilation rights to a post one grade higher than their existing post.

4.2 There may be instances where a permanent or fixed term contract member of staff may be eligible for assimilation into a post which they have been seconded in for a period of not less than 6 months, and where their substantive base post has been deleted. In such instances the employee may face a redundancy situation therefore, subject to the seconded position becoming
vacant and a permanent position on the establishment, the employee may be assimilated into the vacant post provided the assimilation conditions set out in Policy number 252 - ‘Assimilation policy for employees’ are met.

4.3 Where an employee can be assimilated to a lower graded post, even with pay protection, it may be reasonable for the employee to decline this offer of employment without jeopardising a future redundancy payment.

5 Redeployment

5.1 Employees who are potentially redundant are eligible to be redeployed. The Authority will seek to redeploy employees within 3 months (inclusive of contractual notice). Where employees have become redeployees arising from a restructure, the Authority may ring-fence vacancies within the new structure to relevant redeployees. Redeployees will be recruited to vacancies through normal recruitment and selection methods, but provided they are appointable with reasonable training for posts at their substantive grade and for relevant posts at a lower grade, they will have priority status for recruitment over employees who are not redeployees and do not otherwise have priority recruitment status.

5.2 Employees who are redeployed will be given a trial period of 4 weeks. The trial period can only be longer if it is done by agreement in writing before the employee starts work in the new position, and it is for the purpose of allowing time for training.

5.3 Employees who are relocated as a result of redeployment will be eligible for additional travelling expenses in accordance with the provisions of the Policy number 350 - Additional travelling expenses on relocation.

6 Pay protection

6.1 Employees who are directly assimilated in accordance with paragraph 3.2 (a)-(c), or who are redeployed in accordance with paragraph 5.1 are eligible for pay protection if their new post is one grade lower than their previous post, or, in exceptional cases, if their new post is two grades lower than their previous post. Pay protection only applies for as long as the employee remains in the post that the employee is assimilated/redeployed into.

6.2 Pay protection for staff redeployed to a lower grade is as follows:

- Staff redeployed to a lower grade between 1 April 2012 and 31 March 2013 are entitled to two years pay protection with any general increases in pay.
- Staff redeployed to a lower grade between 1 April 2013 and 31 March 2014 are entitled to two years pay protection red circled at their extant rate of pay or until the date the maximum of the lower grade equals or exceeds that rate if earlier.
- Staff redeployed to a lower grade after 1 April 2014 shall be entitled to one year’s pay protection red circled at their extant rate of pay or until the date the maximum of the lower grade equals or exceeds that rate if earlier.

7 Termination of employment on the grounds of redundancy

7.1 The Authority will seek to redeploy employees for a period of 3 months (inclusive of contractual notice), and during this period employees are eligible to be considered for voluntary severance/redundancy. If at the end of this period the employee has neither been redeployed, nor has opted for voluntary severance/redundancy, the employee will be made compulsorily
An employee who is selected for redundancy will be issued with notice of dismissal on that ground.

7.2 Employees who are under notice of redundancy are entitled to reasonable paid time off to look for another job or attend training.

8 Redundancy terms

8.1 The Authority has a voluntary and compulsory redundancy payment scheme available. The severance payment for voluntary redundancies is a multiplier of 1 on the statutory scheme, using actual week’s pay rather than the statutory week’s pay (see ready reckoner set out in appendix 2).

8.2 The compensation on the compulsory redundancy scheme is based on the statutory week’s pay.

8.3 Voluntary redundancy payments may be required to be underpinned by a legally enforceable compromise agreement.

8.4 The Head of Human Resource Management, in consultation with the Director of Finance and Contractual Services, has delegated authority to award additional pension by up to £6,500 per annum for those aged 55 and over, only where there is a clear financial or operational advantage to be gained by the Authority by doing so (FEP 1311).

8.5 Under the rules of the Local Government Pension Scheme (LGPS) currently in force (2011), LGPS members aged 55 and over are entitled to early release of benefits on redundancy.

8.6 Employees who are made redundant under the voluntary redundancy payment scheme will receive a lump sum payment of £10,000 (pro rata for part-time workers) in addition to the voluntary redundancy payment set out in para. 8.1 above.

9 Appeals process

9.1 The Authority’s grievance procedure will apply where an employee wishes to appeal a decision made within this Code.

10 Amendment or termination of Code

10.1 Where the Authority wishes to amend or terminate this Code, it will consult with the relevant trade unions with a view to reaching agreement over the proposed amendment(s)/termination. This Code may be amended/terminated by agreement with the relevant trade unions at any time. Where agreement has not been reached with the relevant trade unions arising from the consultations, the Authority reserves the right to implement its proposed amendment(s)/termination by giving one months notice to the trade unions of its proposals.
Appendix 1 - Management guidance

Introduction

1 The objective of the Code is to minimise redundancies. Whilst the Authority seeks to provide security of employment for its employees, it recognises that there will be occasions when this is not possible. The Code applies where there is need either to reduce staff numbers and/or where there is organisational change. This means that a particular type of work may no longer be required, it may be required to be done differently, or it may be required to be done at a different location.

Consultation

Purpose

2 The purpose of consultation is to provide as early an opportunity as practicable for all concerned to share the problem and explore the options. It can stimulate better co-operation between managers and employees, reduce uncertainty, and lead to better decision making. When faced with a redundancy situation, trade union representatives or individual employees may be able to suggest acceptable alternative ways of tackling the problem or, if the redundancies are inevitable, ways of minimising hardship. The Authority will then be in a better position to decide whether the needs of the Authority can be met in some other way than by dismissal.

Trade Union consultation

3 Where the Authority is proposing to make 20 or more employees redundant at one establishment over a period of 90 days or less, there are specific statutory trade union consultation and notification requirements. Human Resource Management Department will need to be involved in all potential redundancy situations.

4 Regardless of the number of proposed redundancies, the consultation should include ways of avoiding the dismissals, reducing the number of employees to be dismissed, selection criteria, and mitigating the effects of dismissals. Consultation should be undertaken by the Authority with a view to reaching agreement with trade union representatives on these issues. This applies even when the employees to be made redundant are volunteers. Consultation should begin in good time and be completed before any redundancy notices are issued.

5 The Authority has a statutory duty, for the purpose of consultation, to disclose in writing to the trade union representatives the following information concerning proposals for redundancies so that they can play a constructive part in the consultation process:

- 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, taking account of any agreed procedure, 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.
- The number of agency workers working temporarily for and under the supervision and direction of the Authority
- The parts of the Authority’s undertaking in which those agency workers are working.
- The type of work those agency workers are carrying out.
The information may be handed to local trade union representatives or may be sent by post to an address notified by the employer or in the case of a trade union, to the address of the union’s head or main office.

Individual consultation

Consultation must also take place with the individual employees at risk of redundancy including, as far as reasonably practicable, those on long-term leave such as maternity, paternity or adoption leave, sick leave, or a career break. Managers should ensure that employees are made aware of the contents of the Redundancy and Redeployment Code and of the opportunities available for consultation and for making representations. Case law has shown that dismissals have been found to be unfair where a trade union has been consulted but not the individual. Individuals who are to be made redundant should therefore be consulted – irrespective of the length of service of the employee. They are more likely to react in a constructive way following consultation and may be able to suggest alternatives to redundancy.

Process

Selection for employees for redundancy must be done on a fair, consistent and non-discriminatory basis.

Once a redundancy situation has arisen and initial consultation has concluded, it is necessary to decide who shall be selected for redundancy. In some cases, e.g. where all posts are deleted within a section, the affected staff will be potentially redundant and no further selection process may need to take place.

If new posts are created in a new structure, the consideration then is how to select and recruit to the new posts within the new structure. Managers should consider the following:

- Are there posts within the new structure that are substantially similar to posts within the old structure into which potentially redundant employees can be assimilated?
- If there are substantially similar posts, can employees be directly assimilated, or are there more potentially redundant employees than posts. If the latter is the case, what process should be followed to recruit to these posts within a ring-fence process, i.e. what process should be followed to select for redundancy within this group of employees. Any selection process in these circumstances should result to recruitment to all available posts. This is different to a ring-fence recruitment process where employees do not have assimilation rights (e.g. the ring-fence recruitment process referred to in paragraph 5.1 of the Code).

Managers will need to determine the timing of seeking volunteers for redundancy. A voluntary exercise may speed up the process and avoid the need to go through a planned selection process. However the Authority retains the right to ensure that no imbalance of skills and/or experience results from an exercise to seek volunteers for redundancy, and the cost implications will also be taken into consideration. Employees should be advised that not all volunteers for redundancy may be released.

The primary selection criteria for redundancy will be skills, knowledge and experience, which it may be appropriate to test through assessment and interviews. Supplementary criteria that could be used include, for example, attendance and time keeping records, discipline records, and appraisals. Where using documentary evidence, e.g. attendance records, managers need to be satisfied that the evidence upon which their decisions are made cover a reasonable period and can be applied consistently to each person affected. Human Resource Management Department must be involved in each redundancy process.
Redeployment

13 See section 5 of the Code. Redeployees will be kept informed of redeployment opportunities. Failure by the Authority to look for alternative employment for potentially redundant employees may make an otherwise fair redundancy unfair.

14 Provided they are appointable with reasonable training, redeployees will have priority status for recruitment to vacancies over employees who are not redeployees and who do not otherwise have priority recruitment status (N.B. those being redeployed on medical grounds may also have priority recruitment status).

15 The period of redeployment will normally be 3 months, inclusive of contractual notice.

16 Designated officers within the Human Resource Management Department will co-ordinate the process of seeking alternative employment for employees who are (potentially) redundant.

Trial periods

17 Employees who are redeployed will be given a trial period of 4 weeks. It is possible to extend the 4 week trial period but only if it is done by agreement in writing before the employee starts work in the new position and only if the extension is to allow time for retraining. The agreement must specify the terms and conditions of employment that will apply if the employee stays on after the trial period. In all cases Human Resource Management Department must be consulted before an extension is agreed. The manager and employee should meet regularly to discuss the progress of the trial. If it becomes apparent to the manager during the course of the trial period that the employee is not suitable for the post, the manager should discuss his/her concerns with the employee. If those concerns can not be resolved and the trial period is not successful then the employee will revert to redeployee status, and efforts will continue to find them alternative employment.

18 The employee can terminate the redeployment trial period. They do not lose their right to a redundancy payment provided that the job was not in fact suitable, their action in refusing the job was not unreasonable, and the job was terminated within the trial period. An employee who refuses to accept an offer of suitable alternative employment may be dismissed with no liability by the Authority to make a redundancy payment.

Termination of employment on the grounds of redundancy

19 Employees are entitled to notice of dismissal on the grounds of redundancy equivalent to their notice period. Where voluntary redundancy has been agreed, employees will still normally be required to work their contractual notice period.

Special considerations

Discrimination

20 It is unlawful to discriminate against employees on the grounds of race, sex, disability, sexual orientation, faith and belief, and age. In the context of a redundancy situation it is important to ensure that nothing is done that contravenes the provisions of the discrimination legislation.

21 In relation to employees with disabilities, reasonable adjustments must be made, whether for example, in applying selection criteria, in the consultation process or in the consideration of suitable alternative employment. Managers are advised to seek further advice/guidance from HRM/Legal Services.
Maternity, paternity or adoption leave

22 An employee on maternity, paternity or adoption leave has the right to return to the job in which they were employed on no less favourable terms and conditions.

23 If the employee on maternity, paternity or adoption leave is unable to return to their previous job by reason of redundancy, they are entitled, where there is a suitable available vacancy, to be offered alternative employment. The provisions of the alternative employment must not be substantially less favourable than if they had returned to the original job. The employee is entitled to be offered any suitable alternative employment even if it arises before they notify the Authority of their intended return date.

24 Where an employee on maternity, paternity or adoption leave is potentially redundant, managers must therefore ensure that the employee is provided with all necessary information, including in relation to vacancies, and that they are consulted. If necessary, there should be some home visits. Employees should also be informed that they are required to maintain regular contact with their line manager and/or HRM.

25 Managers should take all reasonable steps to facilitate redeployment of employees who are notified of redundancy during maternity, paternity or adoption leave. This includes steps in relation to arrangement of meetings, interviews, and testing. An offer of alternative employment cannot be withheld only on the basis that the employee cannot take up post immediately. The post should be held for the employee until their period of maternity, paternity or adoption leave ends, if necessary covered on a temporary basis.

Sick leave and career breaks

26 The above two paragraphs also apply where an employee is on long term sick leave or a career break.

Additional assistance

27 The Authority recognises that redundancy will be very difficult and worrying experience for employees and will endeavour to offer further assistance as follows:

- guidance on how best to secure alternative employment;
- advice about the financial effects of redundancy on the individual (redundancy pay, pension and state benefits);
- permitting paid time off for individuals to seek independent financial advice and job interviews;
- support and advice from the Advisory and Counselling Service on the implications of redundancy and/or arranging outplacement counselling.
### Appendix 2 - Statutory severance scheme – ready reckoner

| Service (Years) | 2  | 3  | 4  | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
|-----------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| Age             | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 |
| 3 months        |    | 1  | 1½| 1½| 1½| 2  | 2½| 3  | 3½| 4  | 4½| 5  | 5½| 6  | 6½| 7  |    |    |    |    |
| 6 months        |    |    | 1  | 1½| 1½| 2  | 2½| 3  | 3½| 4  | 4½| 5  | 5½| 6  | 6½| 7  |    |    |    |    |
| 9 months        |    |    |    | 1  | 1½| 1½| 2  | 2½| 3  | 3½| 4  | 4½| 5  | 5½| 6  | 6½| 7  |    |    |    |    |
| 12 months       |    |    |    |    | 1  | 1½| 1½| 2  | 2½| 3  | 3½| 4  | 4½| 5  | 5½| 6  | 6½| 7  |    |    |    |    |
| 15 months       |    |    |    |    |    | 1  | 1½| 1½| 2  | 2½| 3  | 3½| 4  | 4½| 5  | 5½| 6  | 6½| 7  |    |    |    |    |
| 18 months       |    |    |    |    |    |    | 1  | 1½| 1½| 2  | 2½| 3  | 3½| 4  | 4½| 5  | 5½| 6  | 6½| 7  |    |    |    |    |
| 21 months       |    |    |    |    |    |    |    | 1  | 1½| 1½| 2  | 2½| 3  | 3½| 4  | 4½| 5  | 5½| 6  | 6½| 7  |    |    |    |    |
| 24 months       |    |    |    |    |    |    |    |    | 1  | 1½| 1½| 2  | 2½| 3  | 3½| 4  | 4½| 5  | 5½| 6  | 6½| 7  |    |    |    |    |

*Note: Table starts from age 18.*

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- It is possible that an individual could start to build up continuous service before age 16, but this is likely to be rare, and therefore Table starts from age 18.

61°[2]—The same figures should be used when calculating the redundancy payment for a person aged 61 and above.
Document history

Assessments
An equality, sustainability or health, safety and welfare impact assessment and/or a risk assessment was last completed on:

| EIA | SDIA | 05/11/2013 | HSWIA | RA |

Audit trail
Listed below is a brief audit trail, detailing amendments made to this policy/procedure.

<table>
<thead>
<tr>
<th>Page/para nos.</th>
<th>Brief description of change</th>
<th>Date</th>
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<tbody>
<tr>
<td>Throughout</td>
<td>Policy reviewed as current no amendments required</td>
<td>29/11/2013</td>
</tr>
<tr>
<td>Page 10</td>
<td>SIA date updated.</td>
<td>31/01/2014</td>
</tr>
<tr>
<td>Page 1</td>
<td>Redundancy terms – page number changed. Delete 'direct.'</td>
<td>17/09/2014</td>
</tr>
<tr>
<td>Page 2, para 4.1</td>
<td>New paragraph inserted where seconded for at least 6 months and employee post has been deleted.</td>
<td></td>
</tr>
<tr>
<td>Page 2, para 4.2</td>
<td>“Additional Travelling expenses on relocation policy 350 has replaced &quot;Staff Code, Section ka 6.2&quot;</td>
<td></td>
</tr>
<tr>
<td>Page 3, para 5.3</td>
<td>3 bullet points have been added to regarding agency workers</td>
<td></td>
</tr>
<tr>
<td>Page 5, Point 5</td>
<td>Deletion of &quot;invited to complete an employee profile form and will be&quot;</td>
<td></td>
</tr>
<tr>
<td>Page 7, para 13</td>
<td>Subjects list and Freedom of Information Act exemptions tables updated.</td>
<td>03/02/2015</td>
</tr>
<tr>
<td>Page 4, para 8.4</td>
<td>Reference to augmentation deleted and replaced by award of additional pension. New para inserted regarding payment of additional £10,000 to employees under the voluntary redundancy compensation scheme.</td>
<td>16/03/2015</td>
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Subject list
You can find this policy under the following subjects.

<table>
<thead>
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<th>Employment</th>
<th>Redundancy</th>
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Freedom of Information Act exemptions
This policy/procedure has been securely marked due to:

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<th>Considered by:</th>
<th>FOIA exemption</th>
<th>Security marking classification</th>
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<td>(responsible work team)</td>
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