

<b>Committee</b>	HR&R		
<b>Agenda Item</b>	3.2		
<b>Date paper prepared</b>	10/10/2022	<b>Date of committee meeting</b>	27/10/2022
<b>Subject</b>	HR Policies and Procedures – Redundancy Avoidance Policy and Procedure		
<b>Author</b>	Judith Fenton, HR&OD Lead		
<b>Action requested</b>	For approval		
<b>Purpose of the paper</b>	To share the policy for approval		
<b>Brief summary of the paper</b>	<p>The paper shares our drafted Redundancy Avoidance Policy and Procedure. The document has been developed in partnership with SMT, union colleagues, and key staff and will apply to all staff. The policy has been drafted with reference to policy used by our Academic Partners in this area.</p> <p>EIS-FELA and Unison wish it noted that they are not able to agree section 6.1 which sets out that UHI Shetland would offer redundancy pay at the statutory amount, but they did approve the policy provided this was noted.</p>		
<b>Consultation</b>	SMG and LNCC		
<b>Resource implications</b>	None identified		

<p><b>Risk implications</b></p>	<p>A failure to have a policy in place could undermine our ability to achieve the restructure safely and fairly. Whilst UHI Shetland is committed to avoiding redundancies, the process provides a mechanism for how we may need to approach restructuring – particularly in relation to alternatives to redundancy (articulated at 4.3.5). Adopting this policy will provide employees with clarity in relation to our approach and the processes we will follow.</p>
<p><b>Link with strategy</b></p>	<p>N/A</p>
<p><a href="#">Equality, Diversity and Inclusion</a></p>	<p>Summarise how any actual or potential (positive or negative) equality, diversity, and inclusion implications have been considered in the development of the paper. Please refer to the Equality, Diversity and Inclusiveness Policy for more information.</p>
<p><b>Island Community Impact</b></p>	<p>Summarise how any actual or potential (positive or negative) impacts on island communities have been considered in the development of the paper.</p>
<p><b>Paper status</b></p>	<p><input checked="" type="checkbox"/> <b>Open</b> – The paper may be circulated to non-members of the committee and published online without restriction.</p> <p><input type="checkbox"/> <b>Restricted</b> – The paper must not be circulated to non-members or published online until after the committee meeting.</p> <p><input type="checkbox"/> <b>Confidential</b> - The paper must not be circulated beyond the committee members and should not be published online. [Please note papers may still be subject to Freedom of Information requests – see below].</p>
<p><a href="#">Freedom of information</a></p>	<p>Open</p> <p>If closed/ withheld, select date this will become 'open': Enter a date.</p>

## Shetland UHI Redundancy Avoidance

### Policy and Procedure

#### 1 Purpose

Shetland UHI's Vision:

Shetland UHI will be an inspirational hub of innovation and learning designed to meet the needs of the people of Shetland, nationally and internationally.

Shetland UHI's Values:

We will achieve our Vision by:

- Working together - Fostering activity and interaction across the organisation and between staff and students.
- Working for Shetland - Addressing skills needs, supporting innovation and applied research for the Shetland economy as the university for Shetland, with the University for the Highlands and Islands (UHI).
- Working sustainably - Embedding sustainability in the curriculum and in our practice. Working to become resilient - Encouraging staff development and aspiration, exploring and achieving new income streams.
- Working with partners - Developing relationships with employers, schools, communities, SIC and relevant national and international institutions.

- 1.1 The purpose of this policy and procedure is to set out our position in relation to redundancy and to set out a policy within which potential redundancy situations can be avoided or where this is not possible, that redundancy situations can be undertaken in a way which is in line with legislation, best practice, and the sectoral guidance on the matter, and to ensure fairness and consistency in relation to the treatment of all staff.
- 1.2 This policy identifies those staff responsible for ensuring such situations are handled professionally, sensitively and in line with this document.
- 1.3 This procedure can be invoked as part of an organisational change procedure, in line with our Organisational Restructuring Policy and Procedure, or when a fixed-term contract or fixed funding ends.
- 1.4 Shetland UHI is committed to protecting job security for staff, as far as practically possible. On occasions where that is not possible Shetland UHI will follow the steps detailed in this procedure by way of attempting to avoid redundancy. In cases where a redundancy cannot be avoided, Shetland UHI will undertake the steps described in relation to support, redundancy payments and notice periods, and in line with our Organisational Restructuring Policy and Procedure.
- 1.5 The consideration and adoption of this policy does not signal that redundancies are either imminent or inevitable. It is recognised that the adoption of a redundancy policy and procedure is an appropriate step in reducing the possibility of redundancies arising and in positively considering and managing staffing issues.

## 2 Scope

This policy applies to employees of Shetland UHI.

## 3 Definition of Redundancy

A redundancy situation arises when:

- The employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was so employed; or,
- The employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed; or,
- The requirements of the business for employees to carry out work of a particular kind has ceased or diminished or are expected to cease or diminish; or,
- The requirements of the business for the employees to carry out work of a particular kind, in the place where they were so employed, has ceased or diminished or are expected to cease or diminish.

## 4 Policy

- 4.1 Shetland UHI values its employees and is committed to the provision of job security and continuity of employment. This stance is central to an environment that encourages research, teaching and professional, administrative and technical support that is so vital to our work.
- 4.2 Shetland UHI recognises that a redundancy situation can arise from various scenarios, the below outlines what these scenarios are and how Shetland UHI will address these.
  - 4.2.1 Organisational Change: The Organisational Restructuring Policy and Procedure outlines the process for managing organisational change projects. If staff are identified as "at risk" of redundancy this procedure should be enacted.
  - 4.2.2 Expiry of Fixed Term Contracts: As of 6 April 2013, the expiry of fixed term contracts at the predetermined end date are excluded from collective consultation. However, should the contract end earlier than planned, collective consultation will apply. In addition, individual consultation will apply to both scheduled and early termination of fixed-term contracts.
  - 4.2.3 Expiry of Fixed Funding: For a member of staff employed on a permanent contract that is funded by fixed funding, which comes to an end, individual and collective consultation will apply.

## 4.3 If redundancies are proposed, Shetland UHI will consult with affected employees and Trade Unions at the earliest opportunity, as follows:

### 4.3.1 Consultation:

Employees and trade unions will be consulted regarding the purpose and detail of the proposal, and business case, and the steps to be followed. Individual consultation meetings will be undertaken with those directly affected by the proposals (i.e., those whose roles may be at risk, if the business case go ahead), to listen to any concerns from employees and to give them an opportunity to discuss the options available to them and for them to express their preferences or counter-proposals. Employees should be invited to bring, if they so wish, a trade union representative or a colleague who is employed by Shetland UHI to formal individual consultation meetings.

When a role or roles is or are considered to be redundant or potentially redundant in line with the definition at Section 3 above, the employees within those roles will be classed as 'at risk'. The term 'at risk' does not mean that the employee will consequently be made redundant, it is simply a part of the process of identification of role holders that may be affected by a proposed change or business case.

### 4.3.2 Collective Consultation:

Where the potential for redundancies has been identified, there is a statutory duty under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended by the Trade Union Reform and Employment Rights Act 1993 to consult with the recognised Trade Union(s) about employees likely to be affected by the proposed dismissals or the measures to be taken in connection with those proposed dismissals. This applies even where those employees identified are non-union members.

### 4.3.3 Individual Consultation:

If a member of staff is identified as "at risk" of redundancy" Shetland UHI will enter into individual consultation with the affected staff member(s). All staff will be offered the opportunity to be accompanied at these meetings and HR will also be in attendance. For staff who are absent, arrangements will be made to ensure a consultation meeting is conducted. The purpose of this meeting is to provide the reason for the post being "at risk" of redundancy and to discuss ways of avoiding the redundancy. Several individual consultation meetings may take place during the consultation process.

### 4.3.4 Equality and Diversity:

To ensure fair treatment and provision of support by Shetland UHI, managers should consider any equity and diversity implications of the proposals and business case before progressing. This will involve conducting an Equality Impact Assessment (EIA), which should be standard practice in cases of major organisational review, to ensure that the proposals do not discriminate against any protected group. This includes equity, diversity, and inclusion considerations in relation to students or customers (where this is applicable) as well as the staff potentially affected by the proposal. Members of staff affected by the proposal are also encouraged to raise any equity and diversity concerns that they may have during the consultation

process. The completed EIA will be shared with all staff and recognised Trade Unions.

#### 4.3.5 Avoiding or Minimising Redundancy:

Shetland UHI will consult with trade union representatives and affected staff to seek to avoid or minimise the effect of redundancies by considering available options, in line with our Organisational Restructuring Policy and Procedure and Local Recognition and Partnership Agreement (LRPA). The following measures will be considered in all cases of potential redundancy and may be utilised in isolation or in combination to avoid a redundancy. This list is not exhaustive, and Shetland UHI is open to alternative suggestions.

- Full or Partial Recruitment Freeze (this could involve ceasing the advertisement of posts).
- Reduce the number of bank staff used to utilise those "at risk" of redundancy.
- Reduction or elimination of overtime, where possible.
- Reduction in working hours.
- Part-time working.
- Term-time working.
- Job shares.
- Reduction of staff levels by natural wastage.
- Redeployment to other roles in Shetland UHI.
- Redeployment or secondment to our wider UHI partnership
- Ending employment of external contractors.
- Voluntary early retirement.
- Voluntary redundancy / voluntary severance
- Sabbatical or secondment
- Diversion of funds including reserves for a period of time.

#### 4.3.6 Redeployment and Retraining:

Where a potential redundancy exists the member of staff "at risk" will be provided with details of all current vacancies within the organisation. This information will be updated on a regular basis throughout the redundancy process. The employee is required to express an interest in any posts within two weeks of notification to be considered for the role. This expression of interest should be accompanied by a CV and cover letter. Support and advice on CV writing could be provided by HR and union representatives, if required.

Job matching to vacancies within the organisation will be undertaken in line with our Organisational Restructuring Policy and Procedure.

#### 4.3.7 Suitable Alternative Employment

Shetland UHI may identify a post that is comparable in terms of the required skills and experience and has similar terms and conditions. In such circumstances, when the "at risk" staff member has not expressed an interest in such a role, Shetland UHI may make an assessment of their suitability and determine a match.

If an "at risk" member of staff then declines an offer of redeployment made through this process, as an alternative to redundancy, they may forfeit their right to their statutory redundancy payment and any offer of an enhanced redundancy payment,

as outlined within our Organisational Restructuring Policy and Procedure.

#### 4.3.8 Trial Periods:

All redeployment opportunities will be subject to a four week trial period in line with, or mirroring, our Organisational Restructuring Policy and Procedure and in compliance with the relevant legislation in relation to Redundancy.

The "at risk" employee's right to a redundancy payment will be preserved, when the following applies:

- The "at risk" employee decides to end the trial before the four week period concludes or at the end of the trial period. The employee should inform HR in writing before 5pm on the last day of the trial period.
- Shetland UHI decides the employee is not suitable for the role. In this scenario, Shetland UHI will inform the employee by 5pm on the last day of the trial period, and provide a reason for this decision.
- A mutually agreed extension to the trial period concludes in Shetland UHI wishing to confirm the redeployment as permanent.

Discussion should take place throughout the trial period and recorded using our Probationary Period Review Meeting Form as a record and structure for the discussions.

#### 4.3.9 Pay Protection:

For staff who are redeployed to a lower graded post or for staff who undertake a reduction in FTE to avoid redundancy the following pay protection would apply;

If an employee, accepts redeployment from a higher to a lower remunerated post, the current pay level will be 'red-circled' (see below) and pay protection will apply for two years as follows:

- 100% of difference between existing pay and top point of new grade for 12 months; and,
- 50% protection of the difference for a further 12 months, if required.

The exception to this will be in cases where the employee is afforded an enhanced level of pay protection under the National Recognition and Partnership Agreement via the National Joint Negotiating Committee where the terms of pay protection in place at that time will apply<sup>1</sup>.

## 5 Redundancy Pay and Notice

5.1 All employees who are to receive redundancy payments will be given a written notification of the formula by which their redundancy pay has been calculated. Redundancy payments apply to all staff with two years reckonable service or more.

5.2 Notice: Where selection has been confirmed, notice of termination will be in accordance with contractual and legal entitlements. In certain circumstances, where it is deemed

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<sup>1</sup> The current arrangements in place are available at <https://njncscotlandscollges.ac.uk/>

appropriate by the college it may be agreed to provide payment in lieu of notice.

## 6 Statutory Payment

6.1 The calculation for redundancy payments will be based on the statutory redundancy payment scheme, and will therefore comprise elements of:

- Length of service;
- Age;
- Weekly pay.

6.2 Enhanced Payment:

There is no contractual right to any additional redundancy payment in addition to the Statutory Entitlement. However, Shetland UHI may, at their sole discretion, decide to offer such additional payments. Where an additional payment is offered, this enhancement will be applied fairly, transparently and consistently, and will be communicated to all staff ahead of offer. The total of any payment, which may be made will comply with His Majesty's Revenue & Customs' ("HMRC") rules around payment of income tax and NI. Any enhanced payments will require the member of staff to sign a settlement agreement.

## 7 Right of Appeal

Any appeal against a decision of selection for redundancy must be submitted within 10 working days, of the date of the outcome letter. This appeal should state the grounds of the appeal and should be submitted to the Principal. The principal will appoint an appeal panel.

The Head of Section or area Head and HR support will be in attendance to present their case and respond to the appeal. The decision of the sub-committee is final and there is no further right of appeal.

## 8 Support

The following options are indicative of the support available to employees. Additional support may be made available and will be communicated. Shetland UHI is committed to developing and enhancing the offer of support to employees.

8.1 Once placed under notice of redundancy, reasonable paid time off work will be granted to employees for the purpose of finding alternative employment (including attending job interviews) or making arrangements for training for future employment. An employee will be required to complete a Special Leave Request Form for authorisation by their line manager and provide evidence of attending interviews or arranging training.

8.2 Repayment of monies paid to the employee such as training expenses, relocation expenses are waived in the event of redundancy, or where early retirement is deemed to be in the interests of the efficiency of the service and where no suitable alternative offer of employment is made, or there is a transfer to a suitable alternative employment post that does not attract such benefits.

8.3 Confidential support is available through Human Resources to give advice as appropriate to help employees work through the process of change, discuss any feelings of uncertainty or worry they may have and to help employees stay focused and in control. The service can help to set career goals and plan for the future or address compounding

personal issues. Counselling services are also available.

- 8.4 Skills Development Scotland can offer Shetland UHI employees redundancy support through Partnership Action for Continuing Employment (PACE). This is a Scottish Government support initiative that provides the support and guidance necessary to get people back into work as quickly as possible.
- 8.5 Support is also available to employees via their respective trade union representative if they are a member.

## 9 Responsibilities

- 9.1 The Human Resources and Remuneration Committee has ultimate responsibility for ensuring that Shetland UHI complies with its statutory obligations in terms of meeting the requirements of relevant legislation.
- 9.2 The Senior Management Group is responsible for ensuring that the Organisational Restructuring Policy is fully implemented throughout Shetland UHI.
- 9.3 The Senior Management Group, all Managers and Team Leaders have a duty to ensure that Shetland UHI's policies including the Organisational Restructuring Policy are implemented within their sphere of activities and responsibility.
- 9.4 It is the responsibility of every manager to ensure that all his/her employees are aware of the policy.

## 10 Retention of Documentation

- 10.1 Any documentation relating to redundancy and potential redundancy situations will be retained on file in line with data retention guidance.
- 10.2 Documentation relating to dismissals by reason of redundancy will be held for a period of 12 months from the date of termination.

## 11 Linked Policies

- Equality, Diversity and Inclusion Policy
- Dignity at Work Policy
- Probationary Policy and Procedure
- Organisational Restructuring Policy and Procedure
- Recruitment and Selection Policy and Procedure
- University of the Highlands and Islands Partnership Retention and Disposal Policy

## 12 Relevant Legislation

- Trade Union and Labour Relations (Consolidation) Act 1992
- Employment Rights Act 1996 as amended
- Employment Rights Act 2004
- Employment Rights Dispute Resolution Act 1998
- Employment Relations Act 1999
- Equality Act 2010
- Disability Discrimination Act 1995
- Sex Discrimination Act 1975 and 1986

<b>Reviewed</b>	<b>By</b>	<b>Approved</b>
13 <sup>th</sup> September 2022	HR and OD Lead (new policy)	Yes
13 <sup>th</sup> September 2022	SMT	Yes
20 <sup>th</sup> September 2022	SMG	Yes
29 <sup>th</sup> September 2022	LNCC	Yes – noted EIS-FELA and Unison not able to agree to 6.1
October 2022	HR&R	