

Livewell Southwest

## **Redundancy Policy**

Version No. 2

Review: August 2019

### **Notice to staff using a paper copy of this guidance**

**The policies and procedures page of Intranet holds the most recent version of this guidance. Staff must ensure they are using the most recent guidance.**

**Author: Human Resources Department**

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## Reader Information

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## Document Version Control

Version Number	Details e.g. Updated or full review	Date	Author of Change	Description of Changes and Reason for Change
1	New Policy	December 2014	HR Policy Group	New document
1.1	Minor Update	June 2016	Deputy Heads of HR	Livewell and equality statement.
2	Policy Review	June 2016	HR Policy Group	Full Review

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# Redundancy Policy

## 1. Equality and Diversity Statement

- 1.1 Livewell Southwest is committed to fairness and equity and values diversity in all aspects of its work as a provider of health and social care services and as an employer of people. We constantly strive to build a workforce that is representative of the community it serves.
- 1.2 Livewell Southwest is committed to eliminating all forms of discrimination on the grounds of age, disability, gender reassignment, marriage / civil partnership, pregnancy maternity, race, religion or belief, sex and sexual orientation in the provision of our services and in recruitment and employment. This enables an environment that is characterised by dignity and respect which is free from harassment, bullying and victimisation.

## 2. Introduction

- 2.1 Livewell Southwest believes it has not only a duty to the public to use its resources as effectively as possible, but also to consider carefully at every stage the welfare of its staff.
- 2.2 Any organisational change or staffing reductions within Livewell Southwest will be achieved as far as possible by redeployment, staff turnover or other means designed to avoid compulsory redundancies.
- 2.3 When a redundancy situation is identified through the accepted organisational change process Human Resources must be informed. No employee should be placed "at risk" of redundancy or be given notice of dismissal without the prior discussion with Human Resources and Director of Operations.
- 2.4 Livewell Southwest views the operation of this policy as a corporate responsibility and expects the full co-operation of managers and staff in finding ways to avoid redundancies.

## 3. Definition

- 3.1 A redundancy occurs where an employee is dismissed mainly or wholly attributable to one of the following circumstances:
  - (a) The employer has ceased (or intends to cease) carrying on the business in which the employee was employed; or ceases (or intends to cease) carrying out this business at the place where the employee was employed.
  - (b) The requirements for employees to carry out work of a particular kind in which the person concerned was employed have ceased or diminished (or are expected to cease or diminish), either in the business as a whole or in the place where the person was employed.

## 4. Responsibilities

The **Chief Executive** is ultimately responsible for the content of all policies, implementation and review.

- 4.1 It is Livewell Southwest's responsibility to manage the process of redundancy in accordance with this policy and in a way that is sensitive to the needs and situation of all our employees.
- 4.2 The Lead Manager for the organisational change process is responsible and accountable for dealing with all possible redundancies within a locality.
- 4.3 When changes affecting the workforce may result in redundancies the Lead Manager will:
- Produce a business case, alongside the organisational change protocol, detailing the reasons for the proposed redundancies. The business case will need to be agreed by the Executive Team.
  - Consider and pursue measures to avoid redundancies where possible.
  - Ensure effective methods of communication are put in place, this includes manager, HR and trade unions.
  - Conduct consultation with representatives of trade unions and individual employees at risk of redundancy in line with organisational change protocol.
  - Provide support to the employees throughout the process.
  - Give notice to employees who are to be dismissed because of redundancy.
- 4.4 A member of the HR team will:
- Advise and support the manager throughout the process.
  - Work with the manager to provide support for employees who are to be made redundant.
  - Where appropriate be responsible for informing the Department of Business, Innovation and Skills of the proposed redundancies under the statutory requirements.
- 4.5 The employee is expected to attend meetings and take part in the discussions about the nature and impact of the proposals.

## 5. Consultation

- 5.1 Where Livewell Southwest proposes to make any redundancies it must formally consult representatives of the Trade Unions about the changes in staffing requirements which may lead to redundancies. Informal discussions should start at the earliest opportunity. Once redundancies are proposed formal meetings must take place within the timescales detailed in Section 6.
- 5.2 Formal meetings with a view to reaching a redundancy plan will be held with individual staff, representatives and collectively with appropriate union representatives as soon as possible after redundancies are agreed. The

purpose of the meeting is to confirm with the individual that their post is “at risk” of redundancy and to provide as much information as possible.

- 5.3 The minimum periods of consultation will be no less than those set out in Employment legislation as may be amended from time to time.
- 5.4 No final decision about whether the redundancy is to be confirmed should take place until after the end of the consultation period. Suitable alternative employment should continue to be sought until the day on which the employees’ contract comes to an end.

## **6. Timescales**

- 6.1 In addition to the right of the individual to be consulted there is a statutory right to be collectively consulted where the employer proposes to make 20 or more employees redundant over 90 days or less.
- 6.2 Consultation with Trade Unions must start at least 90 days before any redundancy notices are served for 100 or more employees and 30 days before 20 – 99 employees. BIS should also be notified by the relevant member of the HR Team. Livewell Southwest recognises the need for appropriate and meaningful consultation and will adopt the 30 days consultation period for redundancies for less than 20 employees.

### **6.3 Staff who are absent from Work**

- 6.3.1 If individuals are absent from work due to e.g. long term sickness, maternity leave, Shared Parental Leave then Livewell Southwest will fully involve these individuals in both the collective consultation process, if appropriate and the individual consultation.
- 6.3.2 These individuals will be kept fully informed throughout the process by ensuring that all documentation and information that is given to their colleagues who are at work are sent to them. This will include redeployment opportunities and regular updates.
- 6.3.3 It is appropriate for Livewell Southwest to make arrangements to visit the individual at home to discuss their “at risk” status in the same way they would if the individual was at work. The only time that this would not occur is if medical advice (from Occupational Health & Wellbeing) is that they are not to be consulted in this way. In these circumstances Livewell Southwest will consult with their representative.

## **7. Employees “At Risk” of Redundancy**

- 7.1 Employees who have been formally notified in writing that they are “at risk” of redundancy have a priority status in respect to vacancies within Livewell Southwest.
- 7.2 “At risk” employees who reject an offer of a suitable alternative employment without objective justification will lose entitlement to redundancy payments. That

is, the employee will be dismissed and will not receive a redundancy payment. Employees at risk must reply in writing to accept or reject the offer. An “at risk” employee who believes he/she has a good reason to reject an offer of suitable alternative employment must write to the Human Resources Department within one working week of receiving vacancy details setting out the grounds for rejection. Human Resources may convene a meeting with the employee and their representative to discuss the rejection. The proposed redeployment will be held in abeyance pending the response of Human Resources.

### 7.3 Suitable Alternative Employment

7.3.1. There is no statutory definition of the word “suitable” and therefore it must be considered on a case-by-case basis. Factors to consider are:

- (a) **Salary** – any significant cut in earnings may make an offer unsuitable but this will be mitigated by the protection arrangements. (See Redeployment Policy)
- (b) **Banding** – a suitable alternative could consider a banding one above or one below existing substantive banding
- (c) **Status** – any significant reduction in status may make an offer unsuitable e.g. from Ward Manager to Staff Nurse.
- (d) **Nature of work** – the work needs to be broadly of the same character and clearly within the employee’s capability.
- (e) **Working hours** – a minor change will probably be acceptable. A major change such as from night to day work would probably be unsuitable. The domestic circumstances of the employee need to be carefully considered. The working hours of the potential redeployment should be at least 85% of the current working hours.
- (f) **Work location** – to decide whether a post is suitable, consideration would need to be given to the individual circumstances of the employee.

7.3.2 The employee may wish, or be prepared to consider alternative employment that might not meet the definition of suitable alternative employment above. It is therefore important that all options are explored. If redeployment to such a post is agreed and the salary of the new post is at least 85% of the current post, alternative protection arrangements and excess mileage may be agreed. If an individual wishes to consider a post at a lower band or with less hours and this means their new salary is below 85% of their previous earnings then no protection or excess mileage will be payable. Any alternative arrangements should be discussed with HR prior to agreement.

### 7.4 Maternity and Paternity Leave Regulations 1999

7.4.1 Under the Maternity and Paternity leave regulations 1999 there is additional statutory protection for employees on maternity leave. The regulations state that where there is a suitable alternative vacancy the employee is entitled to be offered it. This means that employees who fall with in this category are effectively at the top of the list for alternative

vacancies and should be given the role without a competitive selection process.

## **8. Entitlements of Redundancy**

- 8.1 The minimum notice period is either that set out in the employment contract or the statutory minimum whichever is greatest. The period of notice can be improved on where this will assist change. In some circumstances it can be agreed with the employee to make a payment in lieu of notice.
- 8.2 Redundancy payment will be awarded in accordance with Agenda for Change terms and conditions.
- 8.3 The serving of notice should not affect attempts to seek redeployment. The obligations of Livewell Southwest and the employee remain until the dismissal. If a suitable vacancy occurs then this must be brought to the attention of the employee as described in this policy. Conversely, if an offer of suitable alternative employment is made during the notice period a refusal to accept will lead to the loss of entitlement to redundancy payments.

## **9. Selection for Redundancy**

- 9.1 After consultation is complete and there remain a possible number of redundancies planned, Livewell Southwest will negotiate with appropriate union representatives the following:
- a) The occupational group(s) affected.
  - b) The required number of redundancies in each occupational group.
  - c) The pool of employees affected.
  - d) The method of selection for redundancy.
- 9.2 Livewell Southwest will adopt fair and objective selection process with agreed criteria for redundancy, in consultation with union representatives.
- 9.3 Management should give careful consideration before applying selection criteria and the rationale should be discussed with a senior member of the HR team, in order to avoid potential claims for unfair dismissal. Decisions on these matters should not be finalised until employees potentially “at risk” have been consulted. When collective consultation applies Trade Union representatives should be consulted before the decisions are finalised.
- 9.4 Care should be taken to ensure that the selection criteria adopted are consistently applied and do not discriminate on any grounds.
- 9.5 It should be noted that fixed-term employees who have been discriminated against in their selection for redundancy have protection under the Fixed-Term Employees (less favourable treatment) Regulations. It is unlawful to select someone for redundancy purely because of their fixed-term status.

9.6 In the case of an organisational change protocol that includes a service redesign it will not be necessary to formulate selection criteria e.g. where a ward or unit is being closed because all staff will all be part of the pool.

## **10. Pay Protection**

### **10.1 Pay Protection**

10.1.2 Pay Protection as in the Redeployment Policy.

### **10.2 Excess Mileage**

10.2.1 If the new post involves greater travel costs than the previous post then assistance will be given. This will be the extra cost of travel only. This may be:

- a) Second class rail or bus fares.
- b) Own vehicle at Public Transport Rate.

10.2.2 The maximum period will be four years. These expenses will cease sooner if the employee moves base or voluntarily moves post.

### **10.3 Time Off**

10.3.1 Employees at risk will be given reasonable time off in order to:

- a) Consult with their Trade Union representatives.
- b) Look for other employment.
- c) Complete application forms and other related correspondence.
- d) Arrange for and undertake appropriate training (as agreed with his/her line manager).
- e) Visit potential new work locations.
- f) Attend interviews.

### **10.4 Trial Periods**

10.4.1 Employees transferred to a new work place or re-deployed to another post where the terms and conditions differ from the original post are entitled to a statutory four week trial period. The trial period can be extended by mutual agreement but would not be expected to exceed eight weeks. If during this period the employee and/or Manager have concerns about the suitability of the redeployment they should discuss this with a HR representative. The Manager and employee must meet and review the redeployment before the end of the trial period.

10.4.2 Conversely management may decide that the re-deployment is not working and that the offer has not in practice been to suitable alternative employment. In these circumstances the employee will be regarded as “at risk” again and there will be no loss of entitlement.

## **11. Dismissals on the grounds of Redundancy**

- 11.1 If notice of dismissal is to be given, a meeting or dismissals panel will be arranged with the manager, a HR representative, the individual and their representative to issue notice. The employee will have a right of appeal as detailed in Section 12.

## **12. Appealing against the Decision**

- 12.1 Where an employee feels that they have been unfairly selected for redundancy and wish to appeal, they may do so in writing to HR no later than five working days of receipt of the dismissals notice. A panel of an Executive Director or a nominated senior manager and a member of HR, all unconnected with the dismissal, will be convened to hear the case. The employee will have the right to be represented by a Trade Union/work colleague representation at the appeal hearing.
- 12.2 The decision of the panel is final.

## **13. Support Mechanisms**

- 13.1 Livewell Southwest recognises the staff affected by organisational change should have access to the staff support facilities. These include where appropriate, their line manager, Occupational Health & Wellbeing, HR and Trade Union Representatives.

**All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.**

**The Lead Director approves this document and any attached appendices. For operational policies this will be the Locality Manager.**

**The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.**

Signed: Michelle Thomas, Director of Operations

Date: 13<sup>th</sup> October 2016