Facing redundancy in local government

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UNISON
the public service union

Facing redundancy in local government

Over half a million local government workers have lost their jobs in the past decade due to austerity. The Government has said publicly that it has little appetite to continue the harsh level of cuts to local authority funding. However, the coronavirus outbreak and subsequent lockdown across the UK has created an atmosphere of uncertainty about the future across all sectors, including local government. With another recession and potential long-term financial instability on the horizon, local government workers may face further redundancies as councils try to balance their budgets.

UNISON opposes more job cuts in local government: further redundancies will make it even more difficult for local authorities to provide essential services to their communities. UNISON branches, activists and members can support employers to find better alternatives to cutting even more local government jobs.

In this guide, we will tell you the important things you need to know about redundancy in local government, your rights, and what you can do if you think you have been treated unfairly. There is more detailed information in ***UNISON: Fighting redundancies in local government***, which you can find on our website **unison.org.uk/content/uploads/2020/08/26155.pdf**

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

What is redundancy?

Redundancy is a form of dismissal from your job because the job itself is no longer needed. It happens when an employer needs fewer employees to run its business or services. This can be because:

- the employer is going to close some or all of the service
- the employer needs to move and it is too far away for the current workers to travel to for work
- there is less need for a certain type of work so the employer needs fewer staff
- after a reorganisation of work some jobs are no longer needed

What happens when there are redundancies at work?

By law, if your employer decides to cut jobs where you work they must write to all staff who are at risk of redundancy. The letter should explain:

- how many people could be made redundant and which roles
- why they need to cut these jobs
- how they will decide who should be made redundant
- how they will carry out the redundancies and how long it will take
- how they will calculate redundancy pay

Employers should meet with all individuals at risk of redundancy and you have the right to take a trade union representative or a colleague to this meeting with you. If there are more than 20 people at risk, then employers should also meet with a trade union or an elected employee representative, as part of a collective redundancy consultation.

During this consultation, the employer and staff at risk of redundancy or representative should discuss:

- why the redundancies are happening
- how the employer will decide who to make redundant
- ways to reduce the numbers of workers who have to lose their jobs
- possible alternative employment for staff at risk

How much time employers must spend on informing and consulting employees about potential redundancies depends on the total number at risk of redundancy:

Number of employees at risk	Minimum length of consultation
0 – 19	No minimum period
20 – 99	30 days
100 +	45 days

Employers must take the consultation seriously and consider any suggested alternatives. They are not allowed to send any notification of redundancy letters until after the consultation has finished.

Why is the consultation important?

The consultation period is your chance to persuade the employer to make an effort to avoid redundancies altogether, to reduce the numbers of people who could be affected, or to make sure that the employer selects workers fairly if redundancies are absolutely necessary.

What can I do?

- check what your contract and staff handbook say about your employer's redundancy procedure – make sure that they are following the agreed policy! Your UNISON rep can help with this
- join UNISON – strength in numbers will mean that you or your representative can negotiate more easily during the consultation
- suggest alternatives to redundancy during the consultation – are there other things the council can do to save money?
- contact your UNISON rep for support on campaigning against job cuts in your organisation

Alternatives to compulsory redundancy

During the consultation period, your employer may ask you and other workers at risk of redundancy to consider the following options instead of compulsory redundancy:

Voluntary redundancy: Some workers might be thinking about volunteering for redundancy. This can reduce the number of people who are made redundant against their will. Employers can offer more redundancy pay or better terms and conditions such as a long garden leave to attract staff who may be considering voluntary redundancy.

Early retirement: If you are aged over 55 (the minimum pension age), then you may be offered the chance to take early retirement. Employers will often offer incentives to make early retirement more attractive, but it is important to consider this option carefully. If you take early retirement, you will not automatically be entitled to redundancy pay and you will not be able to collect your state pension until you are in your mid-sixties. It is also likely that you will get a smaller pension than if you had continued to work until the standard retirement age.

Redeployment: Your employer may offer you an alternative job in the same organisation or an associated company. You should consider any new job offer by your employer carefully and take advice from your UNISON rep. Your employer can offer you a suitable alternative job in writing before the end of your contract. Any offer must start within four weeks of the end of your current contract. If you are offered an alternative job, you can:

- Accept the new role
- *Reject the offer*. You can reject the offer if the role is clearly unsuitable. But, if your employer argues that it is suitable, they can take your rejection of the offer as a normal resignation and you may lose your redundancy rights.
- *Try the job over a trial period*, usually four weeks long. If you are still in the job at the end of the trial period, then you will have accepted it as your new role. If you reject the job before the

end of the trial period because it is unsuitable, or for a good personal reason, you will be made redundant starting from the date your old job ended, unless your employer disputes whether the job is unsuitable.

Change of contract: Your employer may try to change the terms of your contract, such as reduce your working hours, cut pay or change other terms and conditions. If your employer does this without your or your union's consent then your employer will be in breach of your contract. However, it is important to be clear if you do not agree with proposed changes. If you do not object, and then continue working under new conditions, your employer can take this as an acceptance of the new contract, making it more difficult for you to claim a breach of contract. If your employer proposes any changes to your contract, contact your UNISON rep immediately for advice.

Suggestions you could make to your employer, so as to limit redundancies:

- not replacing staff who leave for a set period
- freezing recruitment for a set period
- reducing/stopping overtime
- 'letting go' of agency staff
- offering staff sabbaticals or secondments
- increasing flexible working: job-sharing for a set period or more home-working can help to cut costs without cutting jobs

After the consultation period

If the employer has not found an alternative to job losses after the consultation period, then they will have to select staff for compulsory redundancy. The employer should already have identified a group of staff at risk, usually employees who do similar types of work in a department, work in a particular location or whose work has reduced or stopped.

If they have to choose between staff, employers must use a selection process that is fair and does not discriminate against workers because of gender, race, disability, age, sexual orientation, transgender status, religion or belief, pregnancy or trade union membership/activity.

Selection must be based on objective criteria, which could include:

- how long you've worked there
- attendance, performance or disciplinary records
- skills and qualifications
- experience

The employer must carefully decide how they will choose staff for redundancy. Selection criteria can sometimes seem objective but actually treat some groups of workers unfairly. For example, using the *last in first out* rule could discriminate against workers because of age, race, gender or disability if your employer had recently made an effort to hire staff from these groups.

If you think that your employer has not consulted workers at risk of redundancy properly, or if you think that you have been selected unfairly for redundancy, please contact your local UNISON rep or take legal advice as you may have a case for unfair dismissal and be entitled to compensation.

What if I am made redundant?

If you have been selected for compulsory redundancy, you will receive a formal notice of redundancy letter. The letter should say:

- the reason for redundancy
- what the notice period will be
- the date of your last day of employment

- details of your redundancy pay
- any other payments you will receive, such as for annual or long service leave

How much redundancy pay should I get?

By law, if you have worked for the same (or an associated) employer for two years or more, then you should get a minimum amount of statutory redundancy pay. Your employer can decide to pay more than the minimum, so check your redundancy policy or contract to see if that is the case where you work. How much redundancy pay you get depends on your age and how long you have worked for your employer. You can use the table below to work out how much redundancy pay your employer should give you:

Age	Amount of redundancy pay
Under 22	0.5 week's pay for each full year of service
22 – 41	1 week's pay for each full year of service
41 +	1.5 weeks' pay for each full year of service

You can also use the redundancy pay calculator to work out your minimum redundancy pay at **www.gov.uk/calculate-your-redundancy-pay.**

Statutory redundancy pay only includes the first 20 years of employment – If you have worked for your employer for longer, any period after the first 20 years will not be counted. There is also a maximum amount for a week's pay, which goes up in April each year. For 2020/21 a week's pay is capped at £538. The maximum amount of statutory redundancy pay you can receive is £16,140.

Your employer can decide to give you more redundancy pay than the legal minimum by:

- increasing the number of weeks' pay you get for each full year of employment up to 104 weeks' pay as a maximum payment
- increasing the maximum amount for a week's pay
- including workers who have been employed for less than two years who do not get statutory redundancy pay

The first £30,000 of your redundancy pay will be tax-free, but any more money you are paid may be taxed.

Notice period

The minimum notice period you should get depends on how long you have worked for your employer:

Length of employment	Notice period
One month – two years	One week's notice
Two – 12 years	Two – 12 weeks' notice (One week for each year you have been employed)
12 years +	12 weeks' notice

For example, if you have worked for your employer for five years, you should get five weeks' notice. If your employer lets or makes you leave before your notice period finishes, they should still pay you for your full notice period.

Your employer should give you a reasonable amount of paid time-off during normal working hours to look for another job or arrange training. Your employer may also offer you the chance to get advice on applying for new jobs and attending interviews, or to discuss investments and income with a financial advisor.

What will happen to my pension?

If you have been a member of the Local Government Pension Scheme (LGPS) in England, Wales, Scotland, or Northern Ireland for at least 2 years and are over the minimum pension age of 55, you must draw your pension benefits if you have been made redundant immediately. The pension you have earned to the date of leaving will not be reduced by an early retirement factor at the present time.

However, the government is planning new regulations that will limit the value of a severance package to £95,000. It is expected to come into force by the end of the year and 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.

Your employer can also decide to pay the local LGPS fund to award you 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/**

If you are below the minimum pension age of 55 when you are made redundant, LGPS offers you the following options:

- transfer your pension to a scheme run by your new employer or to invest in a private pension scheme
- keep the pension money with the employer who is making you redundant. You will be able to draw the pension from this scheme when you retire after you have attained age 55. But if you decide to draw your pension before your normal retirement age your pension would be reduced by an early retirement factor
- get a refund of your contributions if you've been a member of the scheme for less than two years
- possibly transfer to a new pension arrangement if you've been a member of the scheme for less than three months.

What is TUPE?

TUPE, or the **Transfer of Undertakings (Protection of Employment)** Regulations, protects your rights if your current employer transfers the service or business you work for into new ownership. TUPE means that if you are transferred to a new employer, you should keep the same terms and conditions and pay that you have now. Under TUPE:

- neither your old nor your new employer can use the transfer as a reason for redundancy except for under certain circumstances, such as a change in location after the transfer
- your new employer can agree new terms and conditions with staff one year after you transfer, but the new conditions must not leave you worse off
- if you transfer to the new employer, you cannot collect a redundancy payment
- you can refuse to transfer to the new employer, but you might lose out on a redundancy payment and other rights if you do. *Please contact your local UNISON branch for advice if you are considering this*

If you need more advice on TUPE regulations and your rights, please contact your UNISON rep for support.

How can UNISON help?

Going through a restructure at work can be difficult and stressful, whether you are selected for compulsory redundancy, offered voluntary redundancy, redeployed, or end up keeping your job. UNISON has years of experience helping our members face redundancy:

- continuously campaigning against public sector cuts and redundancies in local government
- highlighting alternatives to redundancy, such as relying on natural wastage, freezing recruitment or reducing overtime

- making sure there are proper agreements in place where you work so that any redundancy process is as fair as possible
- offering support and training to help you through the redundancy process – representing you in meetings, advising you on what your employer is saying, help with training for a new job, career counselling or just being here to discuss your concerns.
- offering free legal support if you need it, as well as free debt advice and financial assistance though our charity There For You

Further Information

UNISON
UNISON is the UK's largest public services union. We represent members, negotiate and bargain on their behalf, campaign for better working conditions and pay and for public services. To find out more about joining UNISON, call free on 0800 171 2194 or visit **www.unison.org.uk/join**

ACAS (Advisory Conciliation and Arbitration Service)
ACAS give information and advice on employment rights to both employers and employees. You can call the ACAS helpline on 0300 123 1100, Monday – Friday, 8am – 8pm and Saturday, 9am – 1pm. If you have a hearing or speech impairment you can contact ACAS using Text Relay on 18001 0300 123 1100.

There For You
UNISON's charity There For You offers financial and general advice for members who are having problems at work or at home. They also offer grants and financial assistance to members who are struggling with financial difficulties. You can find out more at **www.unison.org.uk/get-help**

Glossary

Breach of contract
When one or more of the agreed terms of a contract (e.g. when you are paid) is broken

Collective redundancy
When a group of employees (more than 20) are at risk of redundancy or are made redundant by their employer

Compulsory redundancy
Your employer dismisses you from your job because it is no longer available and they have not been able to find you alternative work

Consultation
When the employer speaks to staff at risk of redundancy, as individuals or as a group, about why they are at risk and alternatives to compulsory redundancies

Early retirement factor
A reduction of your pension payments when you withdraw early because you are claiming pension for a longer period of time than anticipated

Employee
A person who works full or part-time under a contract of employment and has recognised rights and duties

Employer
A person or organisation that hires employees and workers

Last in, first out
A method of selecting staff for redundancy where the newest members of staff are the first to be made redundant

Restructure/reorganisation
When an employer changes the structure of a workforce. Could include adding/deleting jobs or changing job descriptions

Statutory
Required by law

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Three simple ways to join UNISON today and get essential cover wherever you work

Join online at
joinunison.org

Call us on
0800 171 2193

Ask your UNISON rep
for an application form

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