



# Redundancy Policy

## GOVERNMENT OF THE COOK ISLANDS

Effective: June 2018

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### Policy Statement

This Policy outlines the approach for managing redundant jobs as a result of changes to Agency structures, in a fair, equitable and sensitive manner.

### Scope

This policy applies to all Public Sector Agencies.

The policy does not apply to:

- Independent Contractors
- Ministers and Members of Parliament,
- Island Mayors and Councilors

### Principles

The Public Service Act 2009 identifies the following values for public servants to adhere to:

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Honesty	acting honestly, being truthful, and abiding by the laws of the Cook Islands
Impartiality	providing impartial advice, acting without fear or favour, and making decisions on their merits
Service	serving the people well through faithful service to the Government of the Cook Islands
Respect	treating the people, the Government of the Cook Islands and colleagues with courtesy and respect
Transparency	taking actions and making decisions in an open and transparent manner
Accountability	being able to explain the reason for actions taken and taking responsibility for those actions
Efficiency and effectiveness	achieving good results for the Cook Islands in an economical way

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The Government is the largest employer in the country and while job security is important for public servants, changes to the internal and external operating environment, or in policy or legislation, requires continuous review of Agencies.

The Employment Relations Act provides for terminating an employee's employment on their job becoming surplus as a result of a genuine restructure of the Agency business environment.

Costs for managing redundant positions and affected employees must be absorbed by the Agency.

### Legislation and Regulations

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Public Service Act 2009, Employment Relations Act 2012 and other relevant legislation.

### Definitions

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**Agency** means any public service department, instrument, or agent of the Government and includes a body corporate or organisation that is wholly owned or controlled by the Crown

**Competencies** are a combination of knowledge, skills and attributes that are directly related to successful performance in a job to achieve agreed targets

**Employee** means any person who is an employee of the Public Sector, but does not include 'casual employees' as defined in the Employment Relations Act

**Employer** means the Public Service Commissioner and Heads of Public Sector Agencies or their delegated authority

**Job** is a summary of key responsibilities which includes the general nature of work performed, the level of work performed, the knowledge, skills and attributes required to perform competently

**Job description (JD)** is the document used to describe the job content, organisational context and specific competencies required to perform the job well

**Managers/Supervisors** are those with responsibility for managing employees

**Public Service Commissioner** means the Public Service Commissioner appointed under Article 73 of the Constitution and Section 5 of the Public Service Act

**Redeployment** means the process applied prior to retrenching an employee whose position has become surplus to requirements by placing the employee into another job that matches the employee's competencies

**Redundancy** means employees becoming surplus to requirement as a result of changes to or the elimination of their job from an Agency restructuring exercise

**Restructuring** means changes in the strategic and operating environment of the Agency which can lead to jobs being modified or becoming surplus to requirements

**Retrenchment** means the termination of the employee's employment because they are no longer required within the Agency or public sector

**Redundancy Pay** means the payment to an employee who is retrenched

**Training** is a structured learning process to improve the knowledge, skills and behaviour (competencies) of redeployed employees

## **Procedures**

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Employers are responsible for administering this policy and ensuring all policies are easily accessible for employees. Employees must read, understand and adhere to this policy. Breaches of the policy may be considered misconduct and be subject to disciplinary action (See Code of Conduct).

## **Roles and Responsibilities**

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### **OPSC will:**

- Provide awareness of this policy and monitor compliance
- Provide advice to Agencies with redundant jobs as a result of restructuring
- Investigate unresolved employment disputes.

### **Employers are responsible for:**

- Ensuring Agency restructuring does not impact negatively on service delivery by maintaining critical skills and knowledge required
- Ensuring the Agency has a plan for managing change as a result of the restructuring
- Providing support for employees who are retrenched
- Seeking opportunities for redeployment of employees from redundant jobs

### **Managers and Supervisors are responsible for:**

- Communicating effectively with all employees - ensuring easy access to relevant information
- Dealing with employee issues fairly and consistently during the Agency restructuring period
- Providing clarity to employees on how the changes affect their employment
- Identifying current competencies of surplus employees to assess redeployment opportunities
- Providing appropriate support to redeployed and retrenched employees

### **Employees should:**

- Actively co-operate in Agency efforts for redeployment or retrenchment
- Actively participate in relevant training and development opportunities

- Raise issues regarding the changes in a timely manner
- Comply with any lawful and reasonable instructions from Employers/Managers/Supervisors
- Adhere to the Public Service values and Code of Conduct

## **Managing Redundancy**

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Agency restructuring that results in redundant jobs and surplus employees must be managed using the approach described below. Refer to Annex01 for the process.

It is vital for employers to keep employees informed throughout the entire process as best you can. Giving enough notice is essential.

### **Identifying surplus employees**

To assess if an employee is surplus to requirements of the Agency, or whether employees need to be transferred due to changes in job requirements, Employers will:

- a) Confirm that the new Agency structure can achieve stated strategic goals
- b) Ensure job descriptions reflect the new Agency structure
- c) Match existing employee competencies to restructured jobs by considering:
  - Relevant work skills or specialist/technical knowledge
  - Relevant qualifications, abilities and attributes
  - Additional criteria – where appropriate
- d) Confirm surplus employees for redeployment or retrenchment

### **Redeployment**

There are two options for redeployment, within the Agency or within the Public Sector.

#### **Redeployment within the Agency can result in:**

- Proposing alternative jobs within the Agency that match the employee competencies.
- A change to the employment terms and conditions of the employee(s) e.g. changes to hours of work or pay, rotational, part time or a job sharing role.

#### **Redeployment within the Public Sector:**

- Identifying alternative jobs within the Public Sector that match the employee competencies.
- Encourage surplus employees to apply for vacant positions

### **Pre Redeployment**

#### **Employers must:**

- Seek alternative jobs for employees within the four week redundancy notice period. Advertise vacant positions using the streamlined recruitment process provided in the Government Recruitment Policy, within the Agency OR the Public Sector.
- Absorb any costs of recruiting or redeploying surplus employees.

#### **Employees must:**

- Actively seek other jobs within the Agency or Public Sector and prepare accordingly, e.g. by updating CVs and preparing for job interviews.
- Apply for vacant positions advertised.
- Accept redeployment terms and conditions
- Accept compulsory redundancy if they are not redeployed within four weeks.

### **Post Redeployment**

Employers must assess the training needs of redeployed employees and provide training where practicable.

## **Communication and Notification**

Employers must meet with all staff to explain the changes to the Agency workforce requirements as a result of the restructuring and specify Agency plans going forward.

Employers must issue a redundancy notice to surplus employee(s) **four weeks** in advance and explain:

- The rationale for the redundant job(s)
- What options are available and how employment terms and conditions will change
- What support may be provided

**Two options are available for surplus employee(s):**

1. **Voluntary redundancy:** where the employee chooses to take the voluntary redundancy pay-out within one week of receiving their redundancy notice.
2. **Redeployment:** where the employee can choose redeployment within the Agency or Public Sector.

Employers must give a retrenched employee four weeks' notice of termination and comply with the relevant provisions of the Employment Relations Act. Employees who are not redeployed within four weeks will be retrenched and provided a compulsory redundancy pay-out.

**The Employer must discuss the Agency restructuring with the Public Service Commissioner and notify the Commissioner of any redeployment or retrenchment of staff.**

## **Retrenchment**

Surplus employees who cannot be redeployed within the Agency or Public Sector, may be provided support to move beyond the Public Sector.

**Retrenchment will occur at the end of the four week notice of redundancy, due to unsuccessful redeployment**

## **Redundancy Payments**

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There are two categories of payments: voluntary and compulsory redundancy

**Voluntary Redundancy** - employees who do not wish to be redeployed are eligible for voluntary redundancy.

**Compulsory Redundancy** - employees who are not redeployed within the four week notice period will be retrenched and are eligible for a compulsory redundancy payment.

### **Payment Terms and Conditions**

Redundancy payments must be funded through Agency budgets and consider fairness and years of service of redundant employees.

Terms and conditions:

- Eligible employees must have at least one year of continuous service at the date of termination
- Payment will be made at the employees' ordinary rate of pay
- Employees who receive a redundancy payment cannot be re-employed within the public sector during the period equivalent to their redundancy pay-out
- Employees who are re-employed into the Public Sector within the period to which their redundancy payment relates will be required to repay the amount on a pro-rata basis
- Employees terminated for misconduct are not eligible to receive a redundancy payment
- Retrenched employees who are eligible for voluntary retirement, have the option of choosing either the Voluntary Retirement Payment or Compulsory Redundancy Payment – not both

The Table below outlines payments for compulsory redundancy.

Length of service	Redundancy Payment
Less than 3 years	Two weeks' pay
Tenure ≥ 3 years but less than 5 years	Four weeks' pay (1 month)
Tenure ≥ 5 years but less than 10 years	Six weeks' pay
Tenure ≥ 10 years but less than 15 years	Eight weeks' pay (2 months)
Tenure ≥ 15 years but less than 20 years	Ten weeks' pay
Tenure ≥ 20 years	Twelve weeks' pay (3 months)

Voluntary redundancy payments include an additional 5% above the amounts shown.

## Appeals

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Employees who feel the decision to terminate their employment on the grounds that the redundancy was unfair have the right of appeal against this decision in accordance with the Public Service Act.

Employees must use the procedures identified in the Employment Disputes Policy and may seek independent legal advice or support at their own cost.

## Other provisions

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All documentation relating to the implementation of this policy must be retained for audit purposes. All records must be kept for at least seven years and only accessible by the employer and/or authorised staff. After the seven year period, the agency may destroy the documentation in adherence with government official information management policies.

The Office of the Public Service Commissioner is responsible for reviewing and updating this policy after a year of implementation.

## Associated Documents

Agency Restructuring  
Job Evaluations Policy  
Remuneration Policy  
Code of Conduct Policy  
Employment Disputes Policy

## Other information

For policy queries contact the Office of the Public Service Commissioner on phone (682) 29421 or email: [opscinfo@cookislands.gov.ck](mailto:opscinfo@cookislands.gov.ck)

## Annex 01 – Redundancy Process Flow

