

RETRENCHMENT POLICY

TT-FOA-11

Standard Operating Policy – Finance,
Operations & Administration

Effective Date – 24 August 2021

1. DOCUMENT CONTROL

1.1. Document Information

Property	Description
Document Title	Retrenchment Policy
Document No.	TT-F0A-11
Document Author	Khethelo Zulu
Change details	
Active Date	24 August 2021

Author Signature: *kgulu* Date: 15/09/2021

Author signature confirms the contents of this document.

1.2. Approvals

The signatures below confirm that the reviewers agree with the content of the document and that this document is approved for implementation within Tshiamiso Trust.

Name	Position	Signature	Date
Dr May Hermanus	Chairman of the Board		
Kgomotso Molebatsi	Chairperson: HR, Remuneration and Governance Committee		
Daniel Kotton	Chief Executive Officer	<i>Daniel Kotton</i>	05/10/2021

This document is effective from the date of the last approval signature.

1.3. Change Record

Date	Effective Date	Author	Version	Change Reference

1.4. Document Location

The fully executed document is held by: The Trust
When printed this document is uncontrolled.

2. POLICY SCOPE

2.1. Purpose of the Policy

The Trust's business model is motivated by growth and competitiveness; however, we are mindful of the fact that we operate in an environment that is highly competitive and regulated. In the unlikely event that business needs compel the Trust to restructure or downsize or close business we recognize the importance of protecting our ~~employees and~~employees and adhering to all statutory labour laws and regulations.

2.2. Objectives of the Policy

The objective of this policy is to address procedurally and fairly any instance which might arise in the future, requiring the need for downsizing employee head count. It is important for all employees to be kept conscious, that the Trust operates in an environment that is regulated and mandated. The Trust recognises the importance of protecting our employees to the end and adhering to all statutory labour laws and regulations and will attempt as far as possible to

- Avoid retrenchments where possible.
- Minimise the effects of retrenchment.
- Ensure that employees are treated fairly during the retrenchment process.
- Enable the Trust and the employees to engage and comply with all labour legislation when embarking on a retrenchment process.

3. POLICY GOVERNANCE

3.1. Policy Review

The Policy will be reviewed in 2024 taking into account any changes in legislation and the Trust's operational requirements.

3.2. Ownership of Policy

Ownership of the Policy will be vested in the Human Resources scope of accountability.

3.3. Approval of Policy

The Policy and any amendments from time to time must be approved by Chief Executive Officer and approval by the Board.

3.4. Legal Context

This Policy is informed by the:

- The Constitution of the Republic of South Africa, 1996
- The Employment Equity Act, 1998, as amended
- The Labour Relations Act, 1995, as amended
- Good Practice Guidelines for Dismissal for Operational requirements
- The Basic Conditions of Employment Act, 1997, as amended
- The Skills Development Act, 1998

3.5. Related Group Policies

The Policy is supported by and should be read in conjunction with the following policies:

- Disciplinary Policy
- Incapacity Policy
- Employment Equity Policy
- Training and Development Policy
- Performance Management
- Recruitment Policy

4. POLICY STATEMENT

The Trust's Retrenchment policy aims to provide a framework under which a contract of employment can or shall be terminated for operational requirements, to set out the procedural regulations for handling any retrenchments that may become necessary due to the operational requirements of the Trust and in compliance with all Labour Legislative requirements.

4.1. The Policy

The Policy covers termination due to the following situations:

- Retrenchment
- Redundancy

The Trust is committed to retaining the service of and offering ongoing opportunities to existing employees in ways which are consistent with achieving the Mandated objectives of The Trust.

Organisational changes involving the loss of positions can be particularly stressful and emotional detrimental. The Trust shall therefore endeavour to minimize stress by keeping employees well informed and offering counselling.

4.2. Termination due to operational requirements

The policy will be cover terminations due to operational requirements as explained in, Section 189 of the Labour Relations Act (LRA).

4.3. Redundancy

No employee shall be eligible to receive a promotion because of being declared redundant.

When a redundancy situation arises, The Trust shall provide written notice to the employee/s impacted. The notice will also detail reasons for the pending redundancy.

5. RECRUITMENT AND SELECTION POLICY

5.1. General Principles

The Trust will maintain transparency from the onset of the retrenchment process.

The Trust will endeavour to seek all possible means of retaining and re-skilling employees before they can be rendered redundant or retrenched e.g., finding suitable alternative positions within the Trust.

A fair and objective selection criterion will be utilised when identifying employees to be retrenched, with focus on critical and scarce skills, employment equity targets and employee skills, knowledge, and competence.

A severance package will be negotiated but will not be less than one week's pay for every completed year of service as stipulated by the LRA and Basic Conditions of Employment Act (BCEA).

5.2. Retrenchment procedure

It is important to make notes of all consultations between the Trust and the employee/s. Management and HR must be party to all consultations.

1st Consultation

The employee/s must be notified of possible retrenchment in writing before the 1st consultation.

The Trust must ensure that the employee understands the rationale behind the proposed retrenchment and the process to be followed. An indication of which business streams or business areas are affected and how many employees this could involve should be provided.

Invite employee/s to provide alternatives to retrenchment, and suggestions and the date of the next meeting must be communicated in writing.

Follow up with written confirmation of session and what was discussed i.e., detailed minutes must be provided to the employee/s.

2nd Consultation

Management and HR must seek and thoroughly consider all alternative to retrenchment, and make sure that there is written response with regards to available or unavailable options i.e., each alternative to retrenchment suggested by the employee must be considered and responded to.

HR must ensure that the employee/s is/are aware of other vacancies that may exist within the Trust at the time of retrenchment and provide the employee/s to opportunity to apply in accordance with the company Recruitment policy.

Follow up with written confirmation of session and what was discussed i.e., detailed minutes must be provided to the employee/s.

3rd Consultation

Should, after extensive consultation, no alternative to retrenchment be found, the Trust must embark on the final consultation with the employee/s.

During the last consultation, The Trust must:

- Confirm the date when the retrenchment will come into effect.
- Table the retrenchment package and the selection criteria to be used.
- Provide the employee with the retrenchment letter, including last working day, notice period and severance package; and
- Consider helping where the Trust can e.g., drafting CV's, assisting with training the employee/s on interviewing skills, investment advisory services to invest the retrenchment package, etc.

5.3. Selection Criteria

Section 189(7) of the LRA provides that employers may select employees to be retrenched according to the criteria they have agreed upon by the consulting parties. If no criteria have been agreed upon, that the selection must be fair and objective, the LIFO ("last in, first out") principal is often applied but is not the only principal.

5.4. Severance package and Termination Benefits

Retrenched employee/s will receive a severance package equivalent to 1(one) week's pay for every completed year of service, guided Section 41 of BCEA.

Retrenched employee/s will, after the expiry of the consultation process, be given 1(one) months' notice of termination of service. Salary received during such notice period will be disregarded for purposes of calculating the severance pay.

The end of the notice period will be regarded as the last working day; however, the Trust may agree to waive the notice period in that the employee may not be required to work the notice period.

The employee/s will be paid all outstanding and accrued leave due and owing up to date of retrenchment i.e., last working day.

Where applicable, the Trust will assist in applying for a Tax Directive from SARS.