

**YSGOL BRO CYNLLAITH**

**Redundancy Policy**

February 2021

Adopted by the Governing Body of Ysgol Bro Cynllaith on : …………………………………..

Signed by the Chair of Governors : …………………………………………..

**This policy applies to all employees except teaching staff employed in educational establishments**

# Introduction

1.1 It is the policy of the Council to ensure as far as possible security of employment for its employees. It should however be recognised that there may be changes in economic conditions, organisational requirements and technological developments which might affect staffing needs. The Council, in consultation with our recognised Trade Unions (UNISON, GMB, UNITE) seeks to minimise the effect of redundancies including the provision of sufficient time and advice for finding alternative employment for displaced staff.

1.2 This policy should be used and read in conjunction with the Council’s Redeployment policy and Management of Change policy.

# Definition of Redundancy

2.1 Under the Employment Rights Act 1996, redundancy arises when employees are dismissed in the following circumstances:

* where the employer has ceased, or intends to cease, to carry on the business for the purpose for which the employee was employed; or
* where the employer has ceased, or intends to cease, to carry on the business in the place where the employee was employed; or
* where the requirements of the business for employees to carry out work of a particular kind have ceased or diminished or are expected to cease or diminish; or
* where the requirements of the business for employees to carry out work of a particular kind, in the place where they were so employed, have ceased or diminished or expected to cease or diminish.
* Redundancy may also arise where the Council no longer has the resources to maintain employees to carry out work of a certain kind.

# Procedure

3.1 Any redundancy situation or restructuring that results or may result in significant changes to the employment terms of up to five employees will need to be authorised and signed off by the appropriate Head of Service.

3.2 Any redundancy situation or restructuring that results or may result in significant changes to the employment terms of more than five employees will need to be authorised and signed off by the appropriate Head of Service, Strategic Director and Portfolio Holder.

3.3 There is a Redundancy Procedure Timetable available for managers to follow when planning restructures that may result in redundancies.

# Consultation

4.1 The Council recognises the need to work with employees and Trade Unions in partnership (in terms of the Council/Trade Unions Partnership Agreement) and on an informal basis wherever possible. Therefore it is appropriate for recognised Trade Unions to be informed of potential redundancies in advance of formal consultation commencing. This will usually also include a copy of the business case, job descriptions, etc. – in short, as much of the detail covered in section 4.5 at least a week before formal consultation commences.

4.2 There must be robust and meaningful engagement with staff and the recognised Trade Unions on all restructuring proposals that may result in redundancies. The following formal consultation periods must be observed where the business case relates to redundancies based on the following:

* 45 days where 100 or more redundancies are proposed;
* 30 days if between 20 and 99 redundancies are proposed;
* Proposed reductions of less than 20 employees can have a locally agreed shorter period of consultation (14 days is the recommended time frame) of less than 30 days but no less than 5 working days.

* 1. Restructurings that may collectively result in reductions of 100 or more employees must be subject of collective consultation. The mechanism for collective consultation is through the Council’s Joint Committee for Negotiation and Consultation (JCNC) and will be led by the manager tasked with leading the change supported by an HR representative, noting that no redundancy dismissals can take effect until consultation is complete.
	2. Consultation should precede any decision to terminate employment on the grounds of redundancy. Consultation must take place between the Council, Trade Unions and employees. The lead manager for the restructure will arrange and lead an initial pre-consultation meeting with representatives from the recognised Trade Unions. The meeting will be arranged at a mutually convenient time.

* 1. The lead manager for the restructure will provide written details to Trade Unions outlining matters for discussion and may include the following information (at least a week before pre-consultation meeting):
* the reason for the proposed redundancy (redundancies);
* the number and categories of employees who are expected to be affected;
* the total numbers in each category of employees employed at the establishment concerned;
* confirmation of discussions on appropriate selection criteria with Trade Unions;
* the proposed method of carrying out the redundancies, with due regard to the period over which the redundancies are to take effect;
* suggestions on redundancy selection criteria; and
* a copy of the Equality Impact Assessment for the restructure or change process that may give rise to a redundancy situation.

4.6 A pre-consultation meeting will be arranged by the lead manager and HR with Trade Union representatives. The purpose of this meeting is:

* to discuss the reasons for potential redundancies;
* to consider ways of avoiding redundancies;
* to discuss and agree the selection criteria should it remain necessary to make redundancies after the consultation period; and
* to discuss the restructure/change timetable and agree dates for meetings.

* 1. Detailed notes should be taken of this meeting and confirmation of the outcomes placed in writing to the relevant Trade Unions.

* 1. Formal Consultation will commence with employees at the earliest possible opportunity following the pre-consultation meeting.

* 1. The consultation process with employees will be led by the lead manager, who should arrange these meetings as a group in the first instance, with an opportunity for individual employees to request a “one to one” session with the manager during the consultation period. Employees should be advised that they have the right to be represented by a Trade Union official at any consultation meeting.

* 1. An HR representative should be present at all the group consultation meetings. Written notes of these meetings should be made and all employees should sign an attendance sheet to confirm their attendance at the meeting. If an employee cannot attend they should be sent a written record of the meeting.

* 1. At the group consultation meeting, employee(s) should be advised of the following:

* reasons for the redundancies;
* the nature of the formal consultation period in which the employee has an opportunity to offer comments/thoughts/ideas etc. on ways of avoiding redundancies;
* the redundancy selection criteria to be used to select staff for redundancy;
* they have the opportunity to raise any questions they have on any aspect of the consultation or the reasons and process for the redundancies;
* the ways in which the Council will be trying to avoid redundancies such as redeployment/other measures;
* that there will be a right of appeal if the consultation results in staff reductions and they are selected for redundancy; and
* that they may arrange further meetings as necessary to ensure that all relevant avenues are explored to avoid redundancies.

* 1. Following these meetings, written confirmation will be sent to each employee confirming the points discussed and advising them of the date that the consultation period finishes.

* 1. Once the formal consultation period ends all employees that have been consulted with will be written to and informed whether the proposals have been changed following consultation. They will also be given a copy of anonymised comments and responses to comments raised during the consultation.

# Measures to Avoid Compulsory Redundancies

5.1 Measures to avoid compulsory redundancies will include:

* seeking volunteers;
* voluntary reduction in hours, including the cessation of overtime working;  job sharing;
* natural attrition (wastage);
* “bumping” - where an employee whose role is redundant is redeployed into another role and the displaced occupier of that role agrees to redundancy instead;
* making details available of any early retirement or voluntary redundancy package that may be available;
* early restriction on recruitment and non-replacement of posts;
* redeployment within the Council; and
* re-training of employees to meet requirements of vacant posts internally (as reasonable/ proportionate)

* 1. As From 8th October 2018, the Council no longer offers an enhanced payment for voluntary redundancy.

* 1. Further guidance on redeployment can be found in the Council’s Redeployment Policy.

# Selection for redundancy – criteria and process

6.1 The Council recognises that in determining who should be selected for redundancy, an appropriate “selection pool” needs to be determined – there are no fixed rules as to how this selection pool should be defined. In deciding whether a redundancy selection pool was fair, an employment tribunal cannot substitute its own view of the appropriate pool, but it can decide whether the pool chosen by an employer (in this case the Council) was within the range of what is termed, “reasonable responses”. It may be the case that the Council may wish to select a particular employee in isolation (a selection pool of one) and this may be done on the strict proviso that the employee selected occupies a unique or highly specialised job role and that there are no other employees performing a very similar role with similar qualifications and/or expertise.

6.2 In terms of selecting the right pool, the starting point is to determine which particular kind of work is ceasing or diminishing and which employees perform that kind of work. For example, if it is determined that the work undertaken by Accountants is set to diminish, the Council may decide, in agreement with the recognised Trade Unions, that all Accountants within the entire Council, as well as those employees performing very similar work with similar qualifications, should be placed in the selection pool. “Similar work”, for the purposes of this policy only, shall mean those employees who, although not necessarily holding the same job title, perform two-thirds or more of the job description of employees whose work is set to diminish.

6.3 HR representatives/ Managers and Trade Union representatives should be consulted in *all* cases when determining a fair selection pool and wherever possible, firm agreement needs to be reached, with the key proviso that the Council will, in all cases, genuinely apply its mind to the issue of who should be in the “selection pool”.

6.4 Once the selection pool has been determined, it will be necessary to determine which employees should be made redundant. In all cases, this will be done using an interview process (not entirely dissimilar to a recruitment interview) but based on the following criteria: work performance, skill/competence, disciplinary record and attendance record as well as competency-based interview questions. Should a manager wish to utilise additional criteria, these criteria need to be ratified by an HR Practitioner/ Manager and subsequently agreed with the Trade Union representatives. However, although the interviewing and selection process should always include the 4 criteria specified above, for most job categories, it may be necessary to widen the interviewing process to include competency-based questions which should be developed from the job description and person specification of the job that is the subject of the redundancy exercise. Competency-based questions are used to identify the key competencies, actions and behaviours required for the job going forward and are particularly relevant for specialised roles and/or supervisory/management positions. Guidance notes will be available to guide the Manager and the HR Practitioner, noting carefully that clear and specific agreement should be reached with the affected employees and their Trade Union representatives as part of the initial consultation meeting(s) at the onset of the redundancy exercise.

6.5 Work Performance

 The department must be able to show that there is objective evidence to support a selection based on this by criteria, as demonstrated by following the procedures for managing performance-related matters.

 This may include outcomes (e.g. written warnings) from formal performance capability hearings, where they are still valid; informal performance action plans; and employee review and development feedback documentation.

6.6 Skills/ competence

 This focuses the Council on the retention of a balanced workforce which means that objective selection criteria related to departmental needs are required. Employees should be able to see what criteria are being used and how they are to be applied. Formal qualifications and advanced skills can also be considered, where they are of direct relevance to future service provision and/or skill-mix requirements.

 Distinction should be made in this area between those qualifications that are essential for the role and those that are desirable. This will be based on the proposed job description for the role, with due regard to the competency-based provisions referred to in section 6.4.

6.7 Disciplinary records

 Only currently valid disciplinary sanctions should be taken into account. Expired disciplinary warnings should not be considered. It is appropriate to consider informal supervisory support plans but only where they were written 6 months or less prior to consultation. The department must be able to show that there is objective evidence to support a selection based on this criterion, as demonstrated by having due regard for the procedures for managing disciplinary matters.

6.8 Attendance record

 It is imperative that appropriate records have been maintained in order to use this criterion. On no account shall the Council take into consideration absence due pregnancy or childbirth when calculating absence. Similarly, account should not be taken of any absences which are as a result of an employee’s recognised disability or pregnancy.

 The department must be able to show that there is objective evidence to support a selection based on this by criteria, as demonstrated by having due regard for the procedures for managing ill-health and attendance matters.

6.9 Applying the criteria fairly

 The Equalities Act 2010 applies in all cases of organisational change and redundancy situations. As such, any factors that would prevent one group of people unjustifiably meeting redundancy selection criteria more easily than others should be avoided. In addition, any employee who is engaged in asserting a statutory right, for example, requesting flexible working, whistle-blowing or acting as a Trade Union representative, should not be selected for redundancy on the basis of asserting that right. To avoid doubt, advice should be sought from Human Resources.

 Further details of strategic integrated/ equality impact assessments and the respective guidance and forms can be found at intranet page 1645. Employees selected for redundancy have a right of access to the records that established their selection for redundancy following the interview process as described above.

# Avoiding compulsory redundancy

7.1 The Council is required to consider and respond to all proposals to avoid compulsory redundancy in a reasonable and proportionate way.

7.2 Methods the Council will utilise to avoid compulsory redundancy include those outlined below.

7.3 Seeking Volunteers for Redundancy and/or Early Retirement

 Whilst applications for voluntary redundancy may be considered, such applications will be subject to, and based upon the requirements of the service. In the first instance, volunteers for redundancy will be requested and details of redundancy payments (and where appropriate, pension benefits) will be made available.

7.4 If asking for volunteers attracts more interest than required, or employees from essential service areas express an interest in voluntary redundancy, or employees with specific skills that the Council would need to retain express an interest in voluntary redundancy, then the Council has the right not to accept an employee’s request. A proper business case that objectively weighs the positive and negative aspects of approving or declining the application (such as a cost benefit analysis) should be undertaken by the appropriate manager.

7.5 Employees wishing to be considered for phased or graduated retirement should, in the first instance, discuss their request with their line manager; further information and guidance can also be sought from their HR Practitioner and the Pensions Department. The earliest age that pension benefits can be voluntary accessed, is Age 55. Pension scheme members under Age 55, would be awarded deferred pension benefits within the scheme. Similarly, employees wishing to reduce their hours (i.e. part-time working) should discuss their proposal with their line manager, with further information obtainable from their respective HR practitioner or trade union representative. More information on making such requests can be found in the Flexible Working Policy. Furthermore, the Council, as part of any restructuring proposals, may invite applications from employees to be considered for voluntary redundancy. However, the Council does not offer an enhanced payment for voluntary redundancy as it has had discretion to do so in the past. This will generally be undertaken on a Service-by-Service approach and employees are strongly urged to make themselves familiar with any supplementary guidance that may be in force at the time of making their application.

7.6 Heads of Service may consider requests for “bumped” redundancies. In these circumstances, employees may volunteer for redundancy to make way for employees with transferable skills whose role may be identified as compulsorily redundant and who do not wish to leave the employment of the Council.

7.7 Redeployment

 The Council has a Redeployment policy that sets out the approach that should be taken with employees who face a possible redundancy situation. Reference must be made to this policy to avoid unnecessary redundancies and to retain required skills.

# Notice periods

8.1 Unless the employee’s contract of employment states otherwise, the statutory period of notice is as follows:

* One month or more but less than two years’ service – one week notice;
* Two years or more but less than 12 years’ service – one week’s notice for each year of continuous employment; and
* Twelve years or more service – twelve weeks’ notice.

* 1. For the purpose of assessing service, any continuous service from previous Local Authorities and certain other agencies may be counted in terms of the Local Government Modification Order - **Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999.**

* 1. The notice of redundancy must be issued at the Statutory Dismissal (Redundancy) Interview and confirmed in writing to each individual affected including the following details:
* reasons for the redundancy;
* effective date of redundancy;
* redundancy payment and how that has been calculated; and
* right of appeal.

8.4 If an employee leaves early without serving the requisite notice or without the Council’s agreement then this counts as a resignation and the employee may lose the right to a redundancy payment. Guidance must be sought from the HR department in such instances.

# Appeals against redundancy

9.1 An employee of the Council wishing to appeal against selection for redundancy should do so in writing to the Professional Lead for HR within 10 working days of receiving written notification of the redundancy.

9.2 Appeals against redundancy will be heard by an Appeals Panel consisting of Elected Members of the Employment and Appeals Committee with the necessary background and training. They will be advised by an HR Practitioner in the appeal.

9.3 The Appeals Panel will hear the appeal as soon as practicably possible. Generally, this will be within 30 working days of registration of the appeal with the Professional Lead for HR. However, it must be recognised that in some cases there may be delays on either side due to numerous reasons.

9.4 The employee shall be given not less than 10 working days' notice of the date of the hearing and may call witnesses and produce documents that are relevant to the appeal. All documentary evidence produced in pursuance of an appeal will be made available to all parties. The procedure to be followed at the Appeals Panel is the same as the appeal process outlined in the Council’s Disciplinary policy.

9.5 The grounds for an appeal may include:

* the selection procedure used;
* the application of the procedure.

* 1. Where the appeal is not upheld, the employee will be informed in writing within 5 working days of the hearing and the panel will then notify the employing department of the decision.

* 1. Council employees are entitled to be represented by a fellow colleague or Trade Union representative at any stage of their respective appeal hearing procedure.

# Misconduct by employees during notice periods

10.1 If an employee is found to have breached their conduct in such a way as to justify summary dismissal, the employee loses their right to a redundancy payment.

10.2 The Council is thus entitled to terminate the employee's contract by reason of the employee's conduct in accordance with the Council’s Disciplinary policy.

# Assisting employees at risk of redundancy

11.1 The following list is not exhaustive but gives guidance on the areas of assistance that may be given to employees whose posts have been declared redundant. Information and guidance on accessing support should be sought from the Council’s Recruitment Team in the first instance.

11.2 Possible options:

* redeployment register & support;
* redundancy counselling;
* CV writing training;
* interview skills training;
* advice on retraining;
* circulation of internal vacancy details; and
* where possible, advice on external vacancies/organisations.

* 1. Reasonable time-off:

 An employee who is under notice of redundancy is entitled to reasonable time off during working hours to look for new employment or make arrangements for training for future employment. The employee is entitled to be paid at the appropriate contractual rate for the period of absence.

* 1. External assistance

 For employees who live in Wales, the Welsh Government’s ReAct Programme, provides a package of support to help people gain new skills, overcome obstacles and improve their chances of returning to work in as short a time as possible after redundancy. Further information can be obtained on their website www.wales.gov.uk or by contacting the ReAct Helpline on **0800 028 4844**.

 Furthermore, Jobcentre Plus has a “Rapid Response Service” which helps individuals to move quickly into alternative employment without the need to claim welfare benefits. They also help employees write CVs and find employment.

 Contact careerswales.com - Coping with Redundancy

[http://www.careerswales.com/en/jobs-and-training/unemployment-andredundancy/coping-with-redundancy/](http://www.careerswales.com/en/jobs-and-training/unemployment-and-redundancy/coping-with-redundancy/)

# Redundancy payments

12.1 The Council will base redundancy payments on actual pay.

12.2 All employees are entitled to a minimum statutory redundancy payment if they have been working continuously with the current employer for 2 years or more.

12.3 Within Local Government, continuous service with other organisations, as defined under the provisions of The Redundancy Payments (Continuity of Employment in Local Government, etc.)(Modification) Order 1999, will also apply to employees length of service when calculating redundancy entitlement.

12.4 Subject to the provisions of paragraphs 12.5 to 12.7 below where applicable, employees with at least two years’ continuous service are entitled to a redundancy payment as detailed in ready reckoner illustrated in the Appendix B.

 The length of service is capped at 20 years, with the maximum redundancy payable being 30 weeks’ pay. This differs from the statutory maximum redundancy payable as illustrated in Appendix A and ensures that there will be equality for employees, regardless of age.

12.5 Those employees aged 55 or over who are members of the Local Government Pension Scheme (LGPS) and leave through redundancy, will be able to access their pension benefits and will also qualify for a statutory redundancy payment (at actual pay) of up to a maximum of 30 weeks, dependent on age and length of service (Appendix A).

12.6 In circumstances where the cost of the total package (including pension strain) for an employee in the 55 and over category amounts to less than that for an employee aged 54 or under category (with the same amount of service), the Council will make a payment equivalent to the difference in cost.

12.7 In more detail this can be explained as employees aged 55 or over at the date of redundancy are entitled to statutory redundancy compensation based on actual pay and access their pension benefits (if LGPS members). Employees under the age of 55 are entitled to redundancy compensation based on the Council scheme. Employees who are 55 and over at the time of redundancy, can access their pension benefits early with a cost attributed to the Council known as the pension strain. The total redundancy package inclusive of pension strain for employees aged 55 or over on the statutory scheme, will not be less than the redundancy package if the employee was under 55 and on the Council scheme. In the event of the statutory package plus pension strain being less than if the individual was under 55, the difference will be paid. This ensures equity across the scheme.

12.8 An employee may lose their right to a redundancy payment where:

* they refuse an offer of suitable alternative employment with the Council;
* before their last date of employment with the Council, they accept an offer of employment with an organisation covered by the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order, for a new job which starts within four weeks of their employment with the Council ending;
* leave their employment early without serving the requisite notice or without the Council’s agreement; or
* are found to have breached their conduct in such a way as to justify summary dismissal in accordance with the Council’s Disciplinary Policy.

# Record retention

13.1 It is important that records pertaining to all approved redundancies are centrally held. (Note that “centrally held” can refer to an electronic repository.) This should include the documentation in cases where voluntary redundancy applications have been declined as well. Please see the following table:

|  |  |
| --- | --- |
| **Document**  | **Location**  |
| Business case  | On employee file and centrally held  |
| Consultation timetable  | Centrally held  |
| Counter-proposals  | Centrally held  |
| Individual (“one-to-one”) consultation notes  | On employee file and centrally held  |
| Notice of redundancy termination letter  | On employee file  |
| Redundancy selection scoresheet  | On employee file and centrally held  |
| Redundancy appeal letter  | On employee file and centrally held  |
| Redundancy appeal outcome record/letter  | On employee file and centrally held  |
| Strategic/equality impact assessment  | Centrally held  |
| Structure charts (pre and post)  | Centrally held  |

# Policy history

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  Policy Date   |  Summary of change  |  Contact  |  Version/ Implementation Date  |  Review Date  |
| October 2018  | Changes to redundancy pay  | J Bevan / S Holcroft  | TBC  | October 2019  |
|   |    |   |   |   |
|   |    |   |   |   |
|   |    |   |   |   |
|   |    |   |   |   |

**Appendix A**

**Statutory Redundancy Table**



**Appendix B**

**Powys Ready Reckoner Redundancy Table**

Based on 1.5 weeks’ pay per continuous years’ service (max 30 weeks)

|  |  |
| --- | --- |
| **Length of** **Continuous** **Service (as per** **Modification Order)**  |  **Number of weeks** **Redundancy Pay**  |
| 2  | 3  |
| 3  | 4.5  |
| 4  | 6  |
| 5  | 7.5  |
| 6  | 9  |
| 7  | 10.5  |
| 8  | 12  |
| 9  | 13.5  |
| 10  | 15  |
| 11  | 16.5  |
| 12  | 18  |
| 13  | 19.5  |
| 14  | 21  |
| 15  | 22.5  |
| 16  | 24  |
| 17  | 25.5  |
| 18  | 27  |
| 19  | 28.5  |
| 20  | 30  |