

WEDNESDAY 9TH AUGUST 2023

**TO: THE CABINET MEMBER FOR ORGANISATION &
WORKFORCE**

I HEREBY SUMMON YOU TO ATTEND A **CABINET MEMBER DECISIONS MEETING FOR ORGANISATION & WORKFORCE** WHICH WILL BE HELD **VIRTUALLY AT 10.00 A.M. ON TUESDAY, 15TH AUGUST, 2023** FOR THE TRANSACTION OF THE BUSINESS OUTLINED ON THE ATTACHED AGENDA.

Wendy Walters

CHIEF EXECUTIVE

Democratic Officer:	Mrs Julie Owens
Telephone (direct line):	0167 224088
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Wendy Walters Prif Weithredwr, *Chief Executive*,
Neuadd y Sir, Caerfyrddin. SA31 1JP
County Hall, Carmarthen. SA31 1JP

A G E N D A

1. DECLARATIONS OF PERSONAL INTEREST.

2. REDUNDANCY POLICY UPDATE.

3 - 18

Note:- The press and public are not entitled to attend the meeting. The decision record will be published normally within 3 working days.

CABINET MEMBER DECISIONS MEETING 15TH AUGUST 2023

Cabinet Member:	Cllr. Philip Hughes	
Portfolio:	Organisation & Workforce	
Purpose:		
<p>To ensure the Redundancy policy reflects changes introduced by the Protection from Redundancy (Pregnancy and Family Leave) Act 2023 which comes into force on 24th July 2023.</p>		
Recommendations / key decisions required:		
<p>To adopt the prescribed statutory changes</p>		
Reasons:		
<p>To comply with statutory requirements.</p>		
Directorate Name of Head of Service: Paul Thomas	Designation Assistant Chief Executive	Tel No. 01267 224825
Report Author:	E Mail Address:ALClarke@carmarthenshie.gov.uk	

Declaration of Personal Interest (if any):

None

Dispensation Granted to Make Decision (if any):

N/A

DECISION MADE:

Signed: _____ DATE: _____

CABINET MEMBER

The following section will be completed by the Democratic Services Officer in attendance at the meeting

Recommendation of Officer adopted	YES / NO
Recommendation of the Officer was adopted subject to the amendment(s) and reason(s) specified:	
Reason(s) why the Officer's recommendation was not adopted:	

**EXECUTIVE SUMMARY CABINET MEMBERS DECISION MEETING
FOR ORGANISATION AND WORKFORCE
15TH AUGUST 2023**

Redundancy Policy - Update

EXECUTIVE SUMMARY:

Protection from Redundancy (Pregnancy and Family Leave) Act 2023 is an act to make provision about protection from redundancy during or after pregnancy or after periods of maternity, adoption or shared parental leave. It was enacted on 24th May 2023 and comes into force on 24th July 2023.

Before an employer can make an employee on maternity, adoption or shared parental leave redundant, redundancy protection regulations require an employer to give that employee first refusal on a suitable alternative vacancy where one exists. The Protection from Redundancy (Pregnancy and Family Leave) Act enables redundancy protections to apply from the point an employee told their employer that they were pregnant, and six months after returning from maternity, adoption or shared parental leave.

In 2015, research commissioned by the government and the Equality and Human Rights Commission found that 77% of 3,254 mothers surveyed said they had a negative or possibly discriminatory experience during pregnancy or maternity leave, or when returning to work from maternity leave. Of those surveyed, 11% reported they had felt forced to leave their job. If scaled up to the general population, the report said this could equate to as many as 54,000 mothers a year.

Certain pregnancy, maternity and/or other family leave protections are already enshrined in law. The Equality Act 2010 makes it unlawful for a person to discriminate against a woman on the grounds of pregnancy or maternity. Additionally, before an employer can make an employee on maternity, adoption or shared parental leave redundant, redundancy protection regulations require the employer to give that employee first refusal on a suitable alternative vacancy where one exists.

Following a consultation in 2019, the government announced it would extend redundancy protections provided for by regulations. This included ensuring that redundancy protection applied at the point an employee told their employer that they are pregnant. The government also committed to extend the redundancy protection period for six months after an employee returned to work from maternity, adoption or shared parental leave.

The Redundancy policy has been amended to reflect this statutory change.

DETAILED REPORT ATTACHED ?

YES

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: Paul Thomas, Assistant Chief Executive

Policy and Crime & Disorder	Legal	Finance	ICT	Risk Management Issues	Organisational Development	Physical Assets
YES	YES	NONE	NONE	YES	YES	NONE

Policy, Crime & Disorder and Equalities

The revised policy supports the Council's Corporate Strategy under the theme Making better use of Resources.

Legal

The Protection from Redundancy (Pregnancy and Family Leave) Act 2023 comes into force on 24th July 2023 and the revised Redundancy policy reflects these statutory provisions.

Risk Management

Failure to introduce these statutory changes would place the Authority at risk of challenge.

7. Staffing Implications

The People Management HR team will continue to advise managers on their responsibilities and obligations during a redundancy exercise in line with the new legislation

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: **Paul Thomas**

Assistant Chief Executive

(Please specify the outcomes of consultations undertaken where they arise against the following headings)

1. Scrutiny Committee

N/A

3. Community / Town Council

N/A

4. Relevant Partners

N/A

5. Staff Side Representatives and other Organisations

CERF to be informed of the statutory changes at the next available meeting.

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

Title of Document	File Ref No.	Locations that the papers are available for public inspection
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Redundancy Policy and Procedure

People Management

July 2023

Original policy adopted April 1996

Amendments adopted: Nov 2007, Nov 2013

EBM Review: Nov 2015

carmarthenshire.gov.uk

Cyngor **Sir Gâr**
Carmarthenshire
County Council



INTRODUCTION

1. What is Redundancy?

Under the Employment Rights Act 1996 a redundancy arises when employees are dismissed because:

- The employer has ceased or intends to cease to carry on the business for the purposes of which the employee was employed or in the place where the employee was employed; or
- The requirements of the business for employees to carry out work of a particular kind or in the place where they were employed, has ceased or diminished or are expected to cease or diminish.

Example

A department is no longer required to provide the same level of service and as a result, the number of staff required to provide the service has reduced.

2. Carmarthenshire County Council is committed as far as possible to providing a stable and secure working environment for its employees. However, there may be times and circumstances where changes in the role and work of Local Authorities, new technology and other organisational changes may necessitate the need for redundancies. This policy and procedure aims to reduce the impact of redundancy and provide support to individuals during this time.

SCOPE OF PROCEDURE

3. This procedure covers all employees¹ including centrally employed school staff but excluding staff on the complement of locally managed schools for which a separate procedure exists.

4. This procedure is not applicable in cases where TUPE (Transfer of Undertakings and Protection of Employment) has been identified.

ENSURING A FAIR PROCESS

5. This procedure must be applied consistently to all employees irrespective of race, colour, ethnic or national origins (including citizenship), language, disability, religion, belief or non-belief, age², sex, gender reassignment, gender identity and gender expression, sexual orientation, parental or marital/civil partnership status, pregnancy or maternity. In addition, the Welsh Language Standards ask us to 'ensure that the Welsh language is treated no less favourably than the English language' and this principle should be adopted in the application of this Guidance.

¹ The right to redundancy compensation payments applies to eligible employees only (see section 6)

² Except in the calculation of redundancy compensation payments

If you have any equality and diversity concerns in relation to the application of this policy, please contact a member of the HR Team who will, if necessary, ensure the procedure is reviewed accordingly.

GENERAL PRINCIPLES

6. Compensation payments will be made in accordance with the statutory provisions, Local Government Compensation Regulations and Employers' Discretionary policies in force at the time. Discretionary policies do not infer contractual rights and are subject to change at any time.

7. Redundant employees will serve a notice period in accordance with their contractual rights or statutory entitlement if that is greater, although this entitlement to notice may be waived by the employee concerned. Only in cases where operational considerations make it impractical for notice to be served will pay in lieu of notice be payable.

8. A Business Case must always be submitted in accordance with the agreed procedure. (See [Retirement, Severance & Redundancy Business Case Guidelines](#)).

9. Where possible, volunteers for redundancy will be sought in the first instance. However, the Authority reserves the right to apply selection criteria if particular skills and knowledge must be retained or if the number of volunteers exceeds the number of redundant posts.

10. The recognised Trade Unions will be consulted at all stages of this procedure. If 20 or more employees are facing redundancy within a 90-day period at one establishment then collective consultation will apply.

11. Employees who are absent from work for whatever reason but particularly when on maternity, adoption, additional paternity leave, shared parental leave or due to long term illness must be kept informed at all stages of this procedure and given the same information and opportunities as other affected employees.

12. Employees have the right to be accompanied by a recognised trade union official or work colleague at all formal stages of this procedure.

13. Managers must consider disabled employees' needs during the process and make reasonable adjustments as necessary.

Example: A Manager manages a team of 20 employees, one of whom is partially sighted. When consulting with their team regarding possible redundancies, the manager should take this into account and ensure that all written communication is accessible to the employee either by providing audio information, setting up a meeting with the employee to go through all the written information with them, or any other suitable method of communication.

ROLES AND RESPONSIBILITIES

14. Heads of Service (HoS) & Line Managers

Advice must be sought from your Human Resources team as soon a potential redundancy arises. Within the parameters of this procedure HoS and line managers are responsible for producing the business case, implementing an agreed consultation plan and liaising with employees to ensure they are kept up to date at all stages and that all alternatives to redundancy are considered including redeployment to other departments within the Authority.

15. Directors

Directors or a nominated representative are responsible for ensuring that a robust business case has been put forward and for ensuring that HoS and managers apply this policy fairly and equitably. Directors will be expected to initiate consultation with the Trade Unions and ensure that staff are consulted with and kept up to date with developments.

16. People Management (PM)

PM will advise departments at all stages of the procedure and will ensure that legal requirements are adhered to in relation to consultation, notice periods, redundancy payments, etc. PM will also ensure that notice letters are issued and redeployment or other options considered and enacted in line with the Redeployment Policy and procedure.

ALTERNATIVES TO REDUNDANCY

17. As soon as there is a requirement for reducing the size of the workforce, alternatives to redundancy should always be considered. This may include:

- Recruitment freezes
- Curtailing use of agency/casual workers
- Reduction in overtime working
- Part time working or other flexible working options
- Natural wastage

PROCEDURES

Consultation

18. It is good practice to consult all employees affected and the recognised Trade Unions as early as possible.

19. The People Services Manager will make the appropriate notification to the Insolvency Service's Redundancy Payments Service where the number of collective redundancies exceeds 20 at one establishment.

20. Statutory consultation periods will be followed for redundancies involving 20 or more employees. This can be anything between 30 and 45 days to commence on an agreed date following consultation with recognised trades unions. Contact your HR team for advice.

21. In calculating the numbers of employees involved, voluntary redundancies and redeployees are included in the total, e.g. if there are proposals to make 17 employees redundant and redeploy a further 5, the total number is over 20 so collective consultation periods apply.

22. If an employee is on a fixed term contract which is coming to the end of its agreed duration, the employee is not included in the calculation. However, if the proposal is to dismiss the fixed term employees earlier than the date agreed within the 90-day period (and the reason is redundancy) the fixed term contracts are included in the count for collective redundancies. (Please see [Temporary/Fixed Term Contracts Guidance](#))

23. Individuals have the right under dismissal procedures to be advised in writing of the reason for dismissal i.e. redundancy; meet to discuss the reasons and a right of appeal. Different arrangements may apply in collective redundancy situations, as agreed locally with trade unions/staff representatives.

24. Individuals and recognised trade unions will be consulted directly and via recognised consultation mechanisms such as the Corporate Employee Relations Forum. As much information as possible relating to the proposed reorganisation or down-sizing and its impact on employees will be provided at each meeting, as appropriate.

Restructuring Policy

25. Prior to selection criteria being drawn up, the Authority's Restructuring Policy and Procedure should be applied.

26. The Restructuring Policy and Procedure should be applied objectively, and results presented by the Director or nominated Head of Service/Lead Manager to the Trade Unions and affected employees.

Selection for Redundancy

27. Where possible, volunteers for redundancy will be asked to come forward. (See paragraph 9).

28. Where the number of volunteers exceeds the number of redundant posts or if the volunteer route is not appropriate, then redundancy selection criteria will apply.

29. Redundancy criteria will be drawn up in consultation with recognised Trade Unions and will be agreed by the relevant Director (or their nominated representative) and Assistant Chief Executive (People Management) or their

nominated representative. Care must be taken in agreeing criteria to ensure that it is not directly or indirectly discriminatory.

Example: Redundancy selection criteria is drawn up to include age and absence from work. An employee is selected for redundancy because they have had a long period of absence due illness. However, the employee has a disability which relates directly to this absence and this must be taken into account or this would be directly discriminatory. Another employee is selected for redundancy as they are nearing retirement age – this is also likely to be discriminatory. Commonly used selection criteria³ includes:

- Skills or experience
- Standard of work performance or aptitude for work (with reference to appraisals)
- Attendance (excluding absences relating to disability, pregnancy or maternity) or disciplinary record

30. All potentially redundant employees should be assessed against the agreed redundancy selection criteria and this should be documented, and individuals advised of the outcome as soon as possible. This may include interviewing employees and assessment against the agreed selection criteria.

31. Employees have a right of appeal against the outcome of the selection process.

32. All employees affected will be advised in writing and will be offered possible redeployment in accordance with the Authority's Redeployment Policy.

33. There may be circumstances where the use of selection criteria is not appropriate, for example where one post only is affected, and in these cases, departments are advised to move straight to seeking suitable alternative employment via the Redeployment Policy.

Suitable Alternative Employment (SAE)

34. Suitable alternative employment will be sought in line with the Redeployment Policy which will offer employees the opportunity to be considered for jobs within the authority prior to open advertisement.

35. The Council is obliged to offer suitable alternative employment where it is available to an employee whose position becomes redundant following notification of pregnancy, during or after ordinary and/or additional maternity leave, ordinary and/or additional adoption leave or shared parental leave. This means that such an employee will be offered a suitable alternative vacancy as it arises and before any other employee whose job is also redundant but who has not notified the Authority for one of these reasons. This applies even where the vacancy arises before the employee has notified the Authority of their intended date of return and during a period of up to 6 months from return to work.

³ ACAS Advisory Booklet How to Manage Collective Redundancies

36. Employees and their managers should work together to identify and consider all potential alternative posts. If an employee unreasonably refuses an offer of suitable alternative employment, s/he may lose his/her entitlement to redundancy pay.

37. Employees should be advised by their manager to consider any offers of redeployment seriously and should investigate the pay offered, potential for additional earnings if the basic pay is lower than the current post, affect on pension, location and additional travel expenses or travelling time, working environment and hours of work, e.g. day work, shift work, etc.

38. If the offer of suitable alternative employment differs materially from the employees' current employment, they have the right to a trial period of four weeks (or longer up to a maximum of 12 weeks, if agreed by the employer). The trial period begins no later than when the previous contract has ended, ie. at the end of the contractual notice period. This gives the employee the chance to decide whether the job is suitable without losing the right to a redundancy payment.

39. If the trial period is successful from the employee and employer's perspective, employment in the new post will be confirmed and the right to a redundancy payment will be lost. If however, the trial period is not successful, the employer may end the new contract and the employee will be entitled to their redundancy payment. However, employees who unreasonably refuse suitable alternative employment may lose any entitlement to redundancy pay. It should be noted that if the dismissal was due to a reason unconnected with redundancy e.g. gross misconduct, the employee may lose their entitlement to redundancy pay.

40. In collective redundancy situations, consideration should be given to supporting employees to find alternative employment outside the Authority via Job Centre Plus or by contacting other employers.

41 Support should also be given, where appropriate, to employees to help with job search, completing application forms, interview techniques etc. Managers should seek advice from Corporate Learning & Development Team and/or the HR Team, as appropriate

42. Time off with pay will be given to employees during their notice period to look for work or retraining opportunities. Requests for time off should be made to the line manager in line with the Council's [Time Off Policy](#).

43. Employees must accept SAE on the basis on which it is offered. There are no salary/conditions protection arrangements.

COMPENSATION PAYMENTS (Discretionary Policy)

44. Employees who have two years continuous service or more at the date of termination of employment will be entitled to compensation payments in accordance with statutory redundancy payment schemes and/or the Council's [Discretionary Policy](#). Discretionary policies do not infer contractual rights and are subject to change at any time.

ACCESS TO LOCAL GOVERNMENT PENSION

45. Employees aged 55 and over may be able to access their retirement pension immediately. Please contact your HR team for further information.

OUTSTANDING PAYMENTS

46. Holidays

Payment will be made for any outstanding annual leave not taken before termination or the appropriate deduction from salary will be made if leave in excess of entitlement has been taken.

47. Authority Car Loan Scheme

The balance of the loan plus interest will become repayable to the Authority on the termination of employment in line with the terms and conditions of the Authority's Car Loan Scheme.

48. Salary sacrifice schemes, e.g. child-care vouchers, cycle 2 work etc

Any amount outstanding will be deducted from final payments in line with the terms and conditions of the salary sacrifice agreement. (Contact HR team for advice).

49. Council Property

Council property e.g. ID cards, keys, mobile telephone, laptop computers, etc, must be returned to your line manager on or before the last day of employment.

OTHER SUPPORT

50. Employees should be offered the option of wellbeing support via the Occupational Health Unit. Line Managers are responsible for arranging this if requested.

APPEALS

51. An employee has a right of appeal against selection for redundancy and dismissal, on the following grounds: #

- Unfair selection for redundancy
- Failure to follow procedures
- Dismissal on the grounds of redundancy

52. All appeals should be made in writing (where possible) to the Assistant Chief Executive (People Management). Appeals should be submitted within 14 calendar days from the date of the letter confirming selection for redundancy/dismissal. The letter should include the detailed reasons for appeal.

53. Appeals will be acknowledged within 14 calendar days. The Assistant Chief Executive (People Management) will convene an Appeals Panel to consider the appeal. The appeals panel will comprise a Director (or their nominated Head of Service) and a HR Advisor (People Management). The Appeal Hearing should be held as soon as possible, at a reasonable time and place. The employee should take all reasonable steps to attend.

54. Employees who require support when submitting an appeal should contact their HR team or Trade Union Representative.

55. The Appeal Hearing and decision is final and should be notified to the employee within 14 calendar days. There is no further right of appeal within the Council.

ADVICE AND SUPPORT

56. Managers may find the [ACAS Learning Online](#) module on Handling Redundancy useful. Advice can also be provided by your HR Team.

MONITORING THIS POLICY AND PROCEDURE

57. Departments must ensure that when managing redundancies, they are not unnecessarily impacting disproportionately on particular groups of employees, e.g. female, disabled, older and ethnic minority employees. An integrated impact assessment should be carried out as part of the redundancy planning process.

58. Monitoring systems will be set up corporately to monitor dismissals on the grounds of redundancy.

REFERENCES

59. The following sources were referred to when developing this policy and procedure.

- Employment Rights Act 1996
- ACAS Advisory Booklet How to Manage Collective Redundancies
- CIPD Policies and Procedures Guidance
- Insolvency Service's Guidance

If you require this publication in an alternative format, please contact CHR@carmarthenshire.gov.uk

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