



Redundancy Policy 2015

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1. INTRODUCTION

Merthyr Tydfil County Borough Council is committed to maintaining and enhancing the efficiency of its services, and, in the process, safeguarding the current and future employment of employees. There may however be occasions when changes in funding provision, the demand for services, organisational requirements or technological developments impact on staffing requirements.

This Policy outlines the approach to be adopted in cases of potential redundancies and shall be applied with due regard to legislative provisions relating to redundancy. It should be read in conjunction with the Redeployment Policy and Procedure.

As an equal opportunity employer, the Council recognises the need to adopt a Redundancy Policy. This Policy should not discriminate, directly or indirectly, on the grounds of gender, sexual orientation, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, religion or belief, disability or age.

The Council will always try to avoid the need for compulsory redundancies but sometimes these may be necessary. Where redundancy is inevitable the Council will handle the matter in the most fair, consistent and sympathetic manner possible in order to minimise any hardship that may be suffered by the employee(s) concerned.

Nothing in this Policy shall preclude the Council from seeking volunteers for redundancy or any employee from agreeing to voluntary severance at any stage of the procedure up to being issued with their notice of redundancy.

2. SCOPE OF POLICY

This Policy applies to all employees of Merthyr Tydfil County Borough Council who have acquired the relevant employment rights. Part time employees and those working under fixed term/grant funded contracts will not be treated differently to permanent full-time comparators.

This Policy does not apply to teaching staff or those under the local management of schools for whom a separate policy applies. This Policy does not apply to agency workers, consultants or self-employed contractors.

This Policy has been implemented following consultation with representatives of our recognised Trades Union(s).

This Policy does not form part of any employee's contract of employment and we may, in response to our reviewing the Policy to ensure that it reflects our legal obligations and business needs, amend it any time.

3. GENERAL PRINCIPLES OF POLICY

The following principles will apply to the application of this Policy.

- i) **Collective consultation** – The Council will undertake collective consultation with the relevant recognised trades unions and their elected representatives.
- ii) **Individual consultation** – Where a potential redundancy situation is identified consultation will be carried out with the individual employee. In any event, in all cases of

potential redundancy, formal consultation will take place with the individual affected in line with the statutory timeframe.

- iii) **Right to be accompanied** – All employees who are subject of this Policy will have the right to be accompanied at any formal meeting held under this Policy by a trade union representative or work colleague.
- iv) **Confidentiality** – All parties involved in these procedures must ensure that they maintain, as appropriate, the confidentiality of the process within and outside the Council.
- v) **Involvement of Human Resources** – A member of the HR team will be consulted and will advise on the formal process.

4. DEFINITION OF REDUNDANCY

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 purposes for which the employee was employed.
- Where the employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed.
- 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.
- 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 are expected to cease or diminish.

5. MEASURES TO AVOID OR MINIMISE REDUNDANCY

In the first instance, prior to any compulsory redundancy being implemented, consideration should be made towards looking at voluntary means to reducing the numbers. The Authority, in consultation with the Trade Union(s), will always seek to minimise the effect on any adverse results of those staffing needs by investigating such matters as

- Natural wastage.
- Redeployment.
- Retraining.
- Restrictions of recruitment.
- Voluntary early retirement.
- Voluntary redundancy including 'bumped' redundancy. It should be noted that employees who volunteer for redundancy who are not in the group of potentially redundant employees, will only be considered if the Council is able to redeploy an employee identified at risk of redundancy into that post with reasonable and achievable training within a specified time period.
- Not renewing fixed term contracts/temporary contracts
- Reducing agency usage
- Restricting non-essential costs (e.g. overtime)

6. VOLUNTARY EARLY RETIREMENT/VOLUNTARY REDUNDANCY

Employees are welcome to submit expressions of interest for VER/VR by completing the VER/VR expression of interest form (which is attached at the end of this document). The current scheme available to interested employees would be an additional 20% on top of the statutory redundancy payment and, if aged 55 or over, to the release of unreduced pension benefits.

Employees interested in expressing an interest in VER/VR should advise their line manager as soon as possible. It is the line manager's responsibility to determine if there is a business case for an employee being able to leave via this route before obtaining any figures.

Expressing an interest does not mean that the employee is committed at this stage. In all cases the acceptance of a volunteer for redundancy will be at the Council's discretion. The Council will reserve the right not to offer voluntary redundancy terms or to refuse an application where it is not in the interests of the Council to do so.

The option of VER/VR will no longer be available once the employee has been issued with their redundancy notice. Employees interested in VER/VR must therefore not delay in advising their line manager of their interest.

Furthermore, when it is known that a whole service is closing VER/VR is unlikely to be approved. This is especially so in areas that are grant funded.

Selection of volunteers for redundancy shall be at the discretion of the Council and shall be determined by the Council's requirements to retain key skills and experience to meet the present and anticipated needs of the Council.

7. CONSULTATION PROCESS

Purpose of consultation

Consultation will be undertaken by the Council with a view to reaching agreement with the Trades Unions and will include consideration of how to:-

- Avoid any dismissals (by reason of redundancy)
- Reduce the number of employees affected by reason of redundancies
- Mitigate the consequences of any dismissals e.g. through voluntary redundancies, offers of alternative jobs (redeployment).

Where the Council is contemplating the need to make redundancies, officers will undertake a fair and responsive consultation process that will be timely, involve relevant unions and affected parties from a formative stage and allow adequate time to seek responses.

All affected employees must be consulted regardless of whether or not they are members of the recognised trades unions. The union consultation group is the formal bargaining group and consultation with non-union employees will be undertaken separately and will be done outside of the collective bargaining process.

The consultation process will take into consideration the proposals offered to mitigate any redundancies by the unions and employees where this is feasible.

The key objectives of the consultation are to:

- Look at means to mitigate/reduce the need for redundancies wherever possible.
- Reach agreement with employees on the statutory notice contents as stated in the HR1 form and Section 188.
- Agree the pool for selection.
- Determine the criteria to be used to select employees for redundancy.
- Mitigate the consequences of dismissals.
- Mitigate the impact on all employees due to the planned changes.

The Council will respond to any written submission from the trades union and employees in this regard, and where appropriate respond to requests for relevant additional information, to aid the process of meaningful consultation.

All meetings need to be minuted, typed up and sent to all parties to seek their approval. It is important that copies of any letters sent to employees are also retained, with a list of who has had a copy. The process must be clearly documented in this way so that the Council can demonstrate the consultation process.

The Council will ensure that it complies with any statutory consultation periods.

It is important to be aware that collective consultation is about proposed redundancies and how to mitigate them and is quite separate from the individual consultation that is required with each affected employee to discuss selection for dismissal. One does not replace the other.

We will make every effort to agree with the Trades Unions and employees. If agreement cannot be reached, we will record this disagreement and the Council will decide on the way(s) forward.

Collective consultation

Once there is a proposal, and senior managers are seriously considering redundancies (voluntary or compulsory), but have not yet reached a final decision, early consultation must take place. Section 188 of Trade Union and Labour relations (Consolidation) Act 1992) applies.

Employers must consult with staff and recognised unions when changes are being considered in the workforce which could result in redundancies, with a view to avoiding such redundancies. The minimum statutory timeframes that should be followed are:

If fewer than 20 employees could potentially be made redundant, as much time as is possible in the circumstances should be allowed for consultation (usually 30 days).

If 20 to 99 employees are affected at one establishment over a period of 90 days or less, a minimum consultation period of at least 30 days must be allowed.

If 100 or more employees are affected at one establishment over a period of 90 days or less, a minimum consultation period of at least 45 days must be allowed.

In addition to this the Council will also consult with employees at risk irrespective of whether or not they are members of a Trades Union.

The employer is also obliged to inform the Secretary of State, via the Redundancy Payments Service (RPS) of the numbers, posts and expected timeline for when the redundancies will take effect if more than 20 employees are affected. An HR1 form should be completed at the start of the consultation process with the unions and employees with a copy being sent to the RPS and one to each recognised union.

Notification to trades unions (Section 188 letter)

The Council will alert the Trades Union/s to the possibility of redundancies at the earliest opportunity, where possible, the planning stage. The Council will provide as much information as possible in accordance with current legislative requirements. Notification will include:

- The reasons for the proposals including a copy of the business case (if appropriate);

- The number of posts and the post titles of employees at risk;
- The total number of employees in each post employed at the establishment;
- The timescales involved including when it is anticipated any redundancy will take effect;
- The way in which employees will be selected for redundancy;
- The proposed selection procedure to be used;
- The proposed method of carrying out the dismissals;
- The calculation of redundancy payments which the employer may make other than those required by statute (if applicable).

The sending of this information to the trades unions triggers the beginning of the statutory formal collective consultation. This should be issued, depending on the numbers of posts affected at the same time as the HR1 is completed by HR and sent to the RPS.

Individual Consultation

Individual consultation, between manager and employee, must take place irrespective of the proposed number of redundancies. The number of meetings will be dependent on individual circumstances (e.g. usually no more than 3 meetings over a 3 week period).

Individual consultation will begin after collective consultation has taken place. The length of collective consultation depends on the numbers of staff affected by the proposal. HR advice must be sought before progressing to any individual consultation.

At times group consultation meetings may be an appropriate alternative to large numbers of individual consultation meetings. HR advice must be sought before this is considered. Individual 1-1 meetings will take place when the Authority cannot mitigate compulsory redundancies at the group meeting stage.

- Letters are sent out to all employees in the pool informing them that they are at risk of redundancy and inviting them to a pool meeting.
- During the pool meeting, opportunity is given to employees to express an interest in VER/VR. Also other options for reducing the need to make compulsory redundancies are discussed, such as job share, part time working and any redeployment opportunities.
- All 'at risk' staff are placed on the redeployment list.

Managers should ensure employees absent from work, on long term sickness and maternity leave are included in all group and individual consultation processes (Please refer to section 15 for further details).

8. SELECTION POOL

Where there is a need to reduce the number of employees who carry out work of a particular kind and there are a number of employees undertaking that work, these employees will form a pool of staff at risk of redundancy.

If there is only one person affected and the post is unique, then the pool will contain one employee.

If the functional requirements that are to be reduced are undertaken by a number of roles, even if they are distributed across a number of locations, then they may well all need to be placed into the pool.

The process will seek to identify employees from that pool with the knowledge, skills and qualities that best meet the present and anticipated needs of the Council.

The Council will consult with the Trades Union and affected employees on the selection pool.

9. SELECTION CRITERIA

Failing to reduce the numbers through voluntary means, the responsible manager, with advice from an HR Adviser, will apply the objective selection criteria as agreed by the Council during meaningful consultation with Trades Union(s) and relevant employee representatives. The process of selection must be conducted fairly, objectively and consistently across the organisation and supported by evidence.

10. REDUNDANCY PROCESS

On applying the objective selection criteria, the manager should determine where the cut-off point is to be in relation to the score outcomes (pending any appeal). For example, if there are ten roles to be retained, those with the top ten points will be offered a role and the remainder will remain in the redeployment pool and potentially be made redundant.

The manager will, with advice from HR, undertake the application of the selection criteria. This scoring will, in so far as is possible, be verified by a second manager.

Once the selection criteria has been applied, the employee must be met with individually to consult and discuss the outcome as well as to submit any evidence that may impact on the score. They should have sufficient information to help them understand how the marks have been awarded. To help with this discussion, the employee's individual score outcome should be evidenced. The score sheet should show the employee where they fell in the overall ranking. All the ranking data with the exception of the employee's own data will be anonymised.

The employee has a right to be accompanied at the meeting by either their trades union representative or a work colleague.

It may be necessary to adjourn the meeting whilst consideration is given to any mitigation provided and reconvene at a later date to confirm the outcome (usually no more than 1 week from date of meeting)

A final outcome letter is then sent to each employee within the pool, denoting the score outcome, what this means to them (i.e. secured a role or not secured a role), if it results in them being provisionally chosen for redundancy and their severance payment estimate. The letter should also inform the employee of their right of appeal.

No employee should be taken out of the 'at risk' pool until all necessary consultation on the matter is complete and appeals have been heard.

Once all queries and the appeals have been completed and the statutory consultation process has finished all employees who are now confirmed as redundant will be sent a redundancy notice letter. The letter will contain confirmation that they are to be made redundant and the length of notice that they are entitled to (up to a maximum of 12 weeks). It should also state the amount of severance payment they will receive (if eligible).

11. RIGHT OF APPEAL

Where an employee is selected for redundancy, that employee will be given the opportunity to appeal against this decision. An appeal must be submitted in writing to the Head of Human Resources within **7 working days** of the date of the formal letter notifying the individual that s/he has been selected for redundancy.

The grounds of an appeal would be for one or both of the reasons below:

1. The employee believes the selection pool was incorrect.
2. The selection criteria was applied wrongly

An appeal meeting will be arranged whereby the grounds of the employee's appeal are considered.

The employee will be entitled to be accompanied by a trades union representative or work colleague.

The appeal, where possible, will be heard by another manager not involved in the original process and ideally at a more senior level. These appeal meetings will, where possible, be supported by a different HR representative.

Once the appeal has been heard, both employee and representative will leave the room whilst the Appeal Officer reaches a decision.

Once a decision has been made, the employee will be called back into the room and informed verbally. The decision must be followed up in writing stating whether the initial decision has been upheld or overturned. In those instances, where as a result of further investigation needed, a decision cannot be made on the day the decision will be confirmed in writing only.

12. REDEPLOYMENT PROCESS

In conjunction with the employee, genuine attempts will be made by the Council to find alternative employment for those employees who are 'at risk' of redundancy. Please refer to the Redeployment Policy and Guidance for further details.

13. REDUNDANCY PAYMENT ENTITLEMENT

Employees who are made redundant and have accrued two or more years' continuous Local Authority service, as at the date of dismissal, will be eligible for a redundancy payment based on the following:

- half a week's pay for each full year you were under 22
- one week's pay for each full year you were 22 or older, but under 41
- one and half week's pay for each full year you were 41 or older

Length of service is capped at 20 years.

Eligibility of a redundancy payment may be lost if an employee unreasonably refuses an offer of suitable alternative employment.

Employees will generally be expected to work out their period of contractual notice so entitlement to pay in lieu of notice will not normally arise.

Alternative Work – another Council

If an employee to be made redundant accepts alternative employment with another Council or a body covered by the Local Government Modification Order, then:

- there is **no entitlement to a redundancy payment** from the Council if that offer of alternative employment is made before the redundant employee's contract ends;
- that new employment starts within 4 weeks of the ending of the existing contract.

What is the Local Government Modification Order?

The Modification Order is primarily a list of certain Government Bodies who offer continuous service. For example, should an employee of Merthyr Tydfil County Borough Council find alternative employment in a neighbouring council or with other recognised bodies on the Order, then their length of service 'carries over' to the new employer.

It is impossible to create a list of every body on the Order by individual name as this would cover several thousand organisations. It is useful to remember that the idea of the Order is that those employers who are in the local government 'family' are included.

It is advisable for an individual who wants to know if a potential new employer is covered by the Modification Order, to directly ask the employer this question.

14. GRIEVANCES RAISED DURING THE REDUNDANCY PROCESS

All matters of redundancy will be handled fairly and sensitively. However, there may be times when the employee wishes to raise a grievance.

If a grievance is raised once the redundancy process has commenced and refers specifically to a procedural issue relating to the redundancy (e.g. inadequate consultation, configuration of selection pool or application of selection criteria etc) then this should form part of the redundancy appeal.

If an employee has been issued with a redundancy notice and has appealed, and the appeal content is the same or largely the same content as a separate grievance, the matter will be addressed as part of the redundancy appeal process.

The grievance hearing will be incorporated within their redundancy appeal meeting and in line with the Council's Grievance Procedure, the employee will have a right to appeal the outcome decision of their grievance.

In order to complete the Grievance Procedure within the contractual notice period, the employee will need to submit their appeal notification in writing, to the manager who heard the redundancy appeal within 3 working days of the date of the written confirmation. The appeal meeting will be held within 5 working days of receiving the appeal notification.

15. EMPLOYEES WHO ARE ABSENT (E.G. ON SICK LEAVE, MATERNITY LEAVE, SUSPENSION) DURING THE REDUNDANCY PROCESS

There may be times when an employee is absent during part or most of the process. If so, the manager must retain contact with the employee and allow them to engage with the process as

fully as possible. If the absence relates to issues that mean the employee should not be contacted, Occupational Health advice will be sought to ascertain the most suitable way to contact the individual so they are engaged in the process. Examples may be writing to the employee rather than meeting with them, meeting in an alternative location/at their home or facilitating the process through a union representative or family member.

If an employee is absent and unable to attend critical meetings (e.g. consultation meetings, trial periods), the Authority will make every effort to support them but may need to look at alternative approaches to the above.

16. FUNDED POSTS

In order to comply with the statutory consultation timeframe and required contractual notice period (maximum length of notice is 12 weeks), in cases of funding roles ending, HR would need to be contacted at least 3 months before the funding is due to end. Failure to correctly apply this policy and associated procedure may constitute valid grounds for appeal at a later stage on the grounds of unfair dismissal. It may also impact on budget constraints as payment in lieu of notice may be required if consultation is undertaken too close to the funding/post expiration date.

Please note, for funded posts, a redundancy notice may have to be issued even when it is not yet clear if funding will discontinue due to timelines. However this redundancy notice can be retracted if confirmation of funding is later received.

17. TRAINING AND SUPPORT MEASURES

Prior to being issued with a redundancy notice, employees in the redeployment pool will be entitled to attend internal interviews in work time and unpaid time off for external interviews.

For those employees that have been issued with a redundancy notice, reasonable paid time off for external interviews can be granted. Where possible HR will also provide on-going support such as arrange training in interview skills and completion of CVs and application forms if requested. Details of our Employee's Assistance Programme are available on the Human Resources page via the Council's Intranet site.

Each case will be considered and agreed on its merits in consultation with the Head of HR. Employees will allow employees time off to participate in any agreed programme.

Disabled employees should have been identified at the initial stage of selecting the 'at risk' pool. These employees, to satisfy the legislation on suitable work adjustments, should be carefully checked to see what roles they can reasonably be offered so that they are not disadvantaged. HR advice should always be sought.

Training and Support for Managers

Training will be provided to ensure that those with management responsibility for employees are clear about the policy and the procedures contained within it and their own responsibilities.

**MERTHYR TYDFIL COUNTY BOROUGH COUNCIL
EXPRESSIONS OF INTEREST
VOLUNTARY EARLY RETIREMENT / VOLUNTARY REDUNDANCY**

Further to the letter inviting expressions of interest from employees to take voluntary redundancy or early retirement I wish to put my name forward for consideration.

In forwarding this expression of interest I accept the following conditions:

- The operational and financial assessment of my early retirement will determine if I'm to be considered for voluntary redundancy or early retirement. I understand that one of the key factors in that assessment will be the size of any saving that may be generated as a result of my early release.
- The Council reserves the right not to pursue any expression of interest for either operational or financial reasons
- I will be provided with an opportunity to receive a formal assessment of the benefits (redundancy payment, annual pension, lump sum as applicable), and if I wish to progress will submit a formal request for early retirement within 7 days of receipt of the financial offer. I understand that my Pension benefits (if any) will only be released where I would be at or over the age of 55 at the date of my termination of employment.
- Until formally submitted to Merthyr Tydfil County Borough Council, I have the right to withdraw my request for early retirement or voluntary redundancy.

Name in Full (please print).....

Pay No..... or National Insurance No.....

Directorate.....

Service Area.....

Post Held.....

Signed..... Date.....

To be completed by Manager:

Manager

Please tick as appropriate:

- No replacement of post Post to be directly replaced Part of wider service reconfiguration / post change

<p>Please return completed forms electronically to:</p> <p>- Ann Robbins - Greg Griffiths</p> <p>Or send to addresses as shown.</p>	<p>PRIVATE AND CONFIDENTIAL Ann Robbins (HR Administration) Merthyr Tydfil County Borough Council Unit 5 Pentrebach Merthyr Tydfil CF48 4TQ</p>	<p>PRIVATE AND CONFIDENTIAL Greg Griffiths (Business Change) Merthyr Tydfil County Borough Council Civic Centre Castle Street Merthyr Tydfil CF47 8AN</p>
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HR Officer allocated:.....