

RESTRUCTURING POLICY & PROCEDURE

The purpose of this Policy is to provide a framework and set of practical guidelines to those who will lead and support the effective management of restructuring within Carmarthenshire County Council (hereafter referred to as the Authority).

INTRODUCTION

Planned change within the Authority happens constantly. These changes can be relatively minor with little impact on staff, such as a new staff car park or new policy. Major organisational change may include departmental re-structuring or the transfer of services within the Authority. The purpose for these changes will in the main be to improve services and outcomes. Whatever the change, it is likely that it will challenge people's 'routine' and even their perceptions of the work environment in some way.

Before embarking on planned change there is a need to understand why we are changing, what will be achieved, are the objectives real and relevant, who will lead and inspire people to move with the change, how will we measure success?

Change management matters. Getting it wrong can be costly to the Authority in a number of ways. The loss of credibility and trust, key employees leaving, increases in sickness absence, reduced morale and even costly litigation in the form of potential claims for unfair dismissal at an employment tribunal.

The principles of this Policy should be applied by all managers when leading and implementing change relating to a restructuring project. It is equally important that employees are aware of the support mechanisms that are in place before, during and after the process.

Associated documentation to be considered in conjunction with this policy is included within the Appendices.

Employees unable to access the Council's Intranet can obtain all of the information referred to in this Policy by contacting their line manager or People Management & Performance HR Advisor.

SCOPE

This procedure covers all employees excluding staff on the complement of locally managed schools, for who the adopted policy for their respective school will apply.

ROLES & RESPONSIBILITIES

Managers

Communicate, communicate, and communicate;

Have a responsibility to ensure that all employees are fully involved in the change process;

Ensure early engagement with your HR Advisor and Accountant via a 'planning meeting' especially when it is evident that the proposed change may affect employees;

Engage with the recognised trade unions at the outset of the process;

Engage with Learning & Development to identify any potential skills development or additional leadership support to support the transition process;

Include those employees away from the workplace for any reason e.g. sickness, maternity leave or those staff on secondment, and make reasonable adjustments to ensure equality of access to all parts of the process.

Consider whether or not the proposal requires any 'political sign off', e.g. Executive Board;

Ensure that a robust record of the process is maintained and clear communications are issued to all relevant members of staff in a timely manner;

Consider your change leadership style. What's appropriate may depend on the magnitude of the change.

Employees

"Giving employees a voice in how change is managed can help maintain their sense of wellbeing." ACAS

Consider the implications of the proposals for you as an individual and also for service delivery;

Participate in the consultation process individually and collectively and/or through your trade union representative, offer constructive comment, and suggest alternative options when appropriate.

Human Resources

"HR's role in the 'effective management of change' is the top skill requirement for the future." CIPD

Ensure that all approved 'restructure documents and guidance are current, relevant, accessible to all managers and employees and signpost as appropriate;

Engage with service managers to support them in formulating the proposals for change, and the restructuring strategy which includes advice on realistic timescales, any associated risks of the proposed change, and an agreed action plan to move the change forward;

Support the engagement of, and consultation with staff, trade unions and other employee representatives, as and where appropriate;

Realise the 'change' on the relevant HR systems to ensure the integrity of workforce information.

CHANGE

In order that the Authority can adapt to changing requirements, there will need to be periodic changes to roles, responsibilities and/or working practices. Flexibility is key and employees are expected to accept reasonable changes which may include change of job title, reporting lines, and relatively minor changes to job profiles. Communication and dialogue with the employees concerned in such circumstances is essential and employees must have the opportunity to express their views and make suggestions. There should be reasonable (relative to the extent of the proposal) notice of any changes, and as far as is practicable, support to adapt to the new way of working. Dependent on the scale of the planned change there may be a requirement to undertake a statutory period of consultation.

Change can take many forms.

- A) Change can take the form of a '**variation of contract**' due to changes required in the delivery of services, reduction in services, efficiency savings and other requirements. Changes to contracts of employment cannot take place without the agreement of the employee and the HR team can provide advice on how to deal with this process and also the steps to take in the event that an employee refuses the change.
- B) Change can take the form of a '**Transfer of Undertakings (Protection of employment)**' (**TUPE**) A "TUPE transfer" is a transfer of a business to which the Regulations apply. The Regulations protect employees when the ownership of the business for which they work changes hands by providing that their contracts of employment transfer automatically to the new employer. The Regulations apply when the whole or part of an employer's business or undertaking is transferred as a going concern to another employer. They also apply to a "service provision change" where a contract for the performance of a function is outsourced, brought back in-house or transferred to a new contractor. A service provision change occurs where:

- i. a service that has previously been carried out by the client is contracted out to a third party;
- ii. a contract to provide a service is awarded to a different contractor following tendering; or
- iii. a service that has previously been carried out by a contractor is brought back in-house by the client.

Further advice in relation to TUPE can be obtained from the HR Team

- C) Change can take the form of potential '**Redundancy**'(please refer to [Redundancy Policy and Procedure](#) . 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.

PLANNING AND PREPERATION

When it is evident that proposed service changes may have an impact on staff, a planning meeting should be called to discuss the proposals. At this meeting should be the Project Lead and (if not one and the same) the Head of Service, Accountant, and Service Area Principal / HR Advisor. The meeting should take place before any submission to Departmental Management Team meetings and Organisational Support Team approval to consult on the proposals. This collaborative approach will support the legitimacy of the proposals for change.

The Outcomes of this planning meeting will be to agree actions to complete:

- The Restructuring Project Plan including communication schedule (**Appendix A**);
- [Equality Impact Assessment](#);
- Proposal Consultation Briefing document;
- Review initial Delegated/Executive Officer report for submission to SLT/DMT.

Once approval to consult has been granted, move to the next phase.

CONSULTATION

Prior to the commencement of consultation with the employee groups affected, and circulation of the proposals to other relevant stakeholders, the Project Lead will, via their Principal / HR Advisor, share the proposal documentation (Proposal Consultation Briefing, and initial Delegated Officer's report) with the recognised Trade Unions. Agreement should be reached on the period of time such information should be considered as confidential. Although the recognised Trade Unions will be unable to share this information this does not imply that there has been agreement with the changes prior to commencement of the consultation stage.

The strategic direction shaping the proposals may have been previously shared at departmental forums for engagement with trade unions. The detailed information, which should include the existing and proposed staffing structures and the financial implications of the proposal, must be provided no later than 7 calendar days in advance of the opening consultation meeting with staff. This will afford the respective trade unions prior knowledge of and, where appropriate, the opportunity to input into the consultation briefing document at an early stage.

The Project Lead will write/email to all the relevant staff to invite them to a meeting to open consultation on the proposals (**Appendix B**). The project lead can also contact individuals by phone in advance of sending out any correspondence if this is deemed appropriate. A copy of the 'Proposal Consultation Briefing' document will be provided at the meeting.

Consideration needs to be given to the size of the staff group affected, and whether more than one meeting or meetings at different geographic locations are appropriate (refer to manager's roles & responsibilities in core document), to ensure that all relevant employees (including those absent) are involved in the process.

A record of the meeting, along with all attendees should be kept. In the event that a member/s of staff cannot attend the consultation meeting an opportunity to contact or meet separately with the Project Lead should be given. Due regard must also be given to ensuring that any member of staff who may be absent from his/her substantive post, e.g. on internal/external secondment, paternity/maternity leave, career break etc, is given the opportunity to attend the consultation meeting. If unable to attend s/he should be contacted by the Project Lead and provided with the relevant information.

The timescale for the consultation period will be relative to the extent of the restructuring proposal*. Employee and trade union consultation will run simultaneously. Both should be encouraged to submit comments on the proposals.

At this point wider publication of the proposals may be instigated. This will have been agreed as part of the communications strategy in the project plan, or the need to do so may become apparent during the consultation period.

Staff will be offered the opportunity of a 1-1 meeting with an appropriate manager should they wish to discuss any issues outside of the group setting, or raise any matters which may necessitate consideration in the implementation of the re-structure.

At the close of the consultation period, all responses must be read and considered, and the proposal reviewed in light of any relevant comment. Consultation feedback incorporating a response to all comments received must be published and circulated to all staff and trade unions involved in the process. Dependant on the volume of response, it may be appropriate to theme the discussion points.

A further group meeting would not normally be called at this point, having closed consultation. There is however discretion to hold a further meeting if it is considered that this can resolve any residual issues. This can be requested by the project lead or trade union representative on behalf of employees in the service area being restructured. The project lead will review the proposal documents, job profiles etc., in light of the consultation exercise. It may be necessary to issue amended documents for further consideration and approval of SLT/DMT and, if appropriate, the Organisational Support Team. Where no changes are deemed necessary or appropriate, the project lead will confirm that all is unchanged and proceed to publish the finalised documentation.

** The supporting HR Advisor will advise on the appropriate consultation periods where proposals indicate the potential for a 'collective redundancy' situation.*

IMPLEMENTATION – FILLING NEW POSTS IN THE NEW STRUCTURE

New Posts

Where there are new posts created within the new structure, and where it has been determined that there are no 'Confirm in Post' candidates from the group of employees within the service area being restructured, these positions will be advertised. The posts will initially be restricted to those employees in the service area being restructured (**Appendices I**). New posts will normally be released to advert on a tier by tier basis. Selection will be in accordance with the Authority's 'Recruitment & Selection' procedure.

Confirm in Post

A) Confirm in Post is appropriate where it is assessed that there are comparable posts between the old and the new structures in terms of duties / accountabilities (**defined as at least 70% of the post within the new structure**) and pay grade (**this will not normally be more than one grade higher or lower than that of an employee's existing pay grade**). The essential criteria in the person specification must also be **fully** met or can be with reasonable training and support. Any training /support required would normally be for a period not exceeding 12 weeks.

Staff will be notified by letter that they are required to complete an 'Assessment of Compatibility' pro-forma for their assessment. (**Appendices C and D**)

Confirm in Post can only be applied when the above conditions are met, and there are sufficient positions for qualifying candidates.

It is essential that these decisions are made objectively and in a consistent way. It should be confirmed at the outset the manager/s responsible for undertaking the Assessment of Compatibility process. Managers must ensure that their decisions are based purely on factual and objective reasoning which will need to be justified and evidenced. Before any outcomes can be confirmed HR must have been notified of the decisions made and provided with all relevant documentation. Staff can then be advised whether or not they have been confirmed in post. (**Appendix E or Appendix G**)

B) There may be occasions where it is considered that there are comparable posts, and qualifying candidates (as detailed above), however, there are insufficient positions for the pool of staff. *This needs to be taken into account at the planning stage.* (**Appendix E or Appendix G**)

In this situation, selection criteria must be operated in order to determine who is appointed into the jobs available. Selection could be via desktop assessment against an agreed matrix or a selection interview. Managers should seek advice from a HR Advisor. Please refer to the [Redundancy selection guidance](#), **Appendix E or Appendix G.**

'At Risk'

In situations where employees have not been confirmed in post and also have been unsuccessful in obtaining any of the new posts that are available within the service area being restructured, it will usually be the case that they are declared 'at risk' of redundancy. At this point they will be placed onto the corporate Redeployment Register.

The timing of such a declaration is, however, important, and any variations will be discussed with the trade unions at the start of the consultation process.

The Authority will adopt a reasonable approach to reduce the 'risk' for employees. It is critical that these matters are discussed at the planning stage, and may include measures in respect of recruitment plans, temporary positions, and voluntary early retirement /redundancy exercises. Comment from the trade unions on such matters will always be invited.

PROCESS REVIEW

If an employee feels they have been wrongly allocated a post or unfairly discounted from assessment for a particular position in the new structure, they may request a review of that decision. The letter should state their grounds and detailed reasons behind these.

The review will be undertaken by the Departmental Director (or a nominated appropriate officer, albeit not the officer leading or sponsoring the project), supported by an HR Advisor.

The review will consider whether all appropriate and accurate information was considered in making the decision, and whether due process was followed.

The request for review must be submitted within 7 calendar days of receipt of notification of which posts the employee was, or was not, assessed for.

If an employee is requesting a process review on the basis that they have been selected for redundancy please refer to the [Redundancy Policy and Procedure](#). The outcome of this review is final in respect of the process.

PERIOD OF ADJUSTMENT

Where the offer is to a position on a lower grade, or where the terms and conditions attached to the position create a detriment in the total pay package, a period of 12 weeks pay adjustment will apply. This is to support the employee to adjust to the new conditions before pay is reduced. No pay increments associated with the previous post will be awarded during the 12 week period of adjustment. Pay increments would be effective when transferred onto the grade of the new post.

The new terms and conditions of employment and pay will be effective from the end of the 12 week adjustment period, or when the total pay for the new post reaches or exceeds the total pay for the previous role, whichever is sooner.

TEMPORARY AND FIXED TERM EMPLOYEES

Where employees in the service area being restructured are contracted on a fixed term or temporary basis they can be considered for new posts and may be considered for 'confirm in post' please refer to the [Temporary/Fixed Term guidance](#). It must be noted, however, that a temporary employee who is providing cover for a substantive post holder e.g. in a secondment or maternity situation, cannot displace the substantive employee.

SECONDED EMPLOYEES

Employees who have been seconded to a post within the service area being restructured can be considered for new posts and may be considered for 'confirm in post'. It must be noted, however, that a seconded employee who is providing temporary cover for a substantive post holder cannot displace the substantive employee.

Where an employee is on secondment outside of the service area being restructured s/he will be considered in accordance with their substantive post within the service area.

SUPPORT

Planned change within the Authority happens constantly. As employees of Carmarthenshire County Council, we may be affected by change in a number of ways, depending on what the change is, our involvement, experiences and impact on us.

Wherever possible ensure acceptable outcomes for employees through this process, it is important that they are supported at the various stages they face.

Employees and managers can access information on the Authority's intranet [Supporting staff through change](#) on a whole range of tools and tips that they may benefit from using or can share with colleagues.

Should any concerns for an employee's health and well-being become apparent at any point in the process, early intervention is key. The opportunity to access appropriate support services via the Occupational Health Unit should be discussed with the employee concerned.

EXCESS TRAVEL

For those employees who are confirmed in post and whose place of work is re-located as an outcome of the restructure process, excess mileage in accordance with the provisions of the Authority's Excess Travel Policy will apply.

ENSURING EQUALITY OF TREATMENT

The Authority is committed to ensuring equality in everything that we do. The Equality Act 2010 has replaced and strengthened all previous equality legislation..

This policy must be applied consistently to all employees irrespective of race, colour, nationality (including citizenship), ethnic or national origins, language, disability, religion, belief or non belief, age, sex, gender reassignment, sexual orientation, parental, marital or civil partnership status, pregnancy or maternity.

If you have any equality and diversity concerns in relation to the application of this policy and procedure, please contact a member of the HR Team

If you require this information in an alternative format (for example large print), please contact People Management and Performance on Ext: 6184 or email PMBusinessSupportUnit@carmarthenshire.gov.uk

