RESTRUCTURING AND REDUNDANCY POLICY

This policy provides Cafcass with a framework to manage any potential restructures and possible reductions in the workforce of the organisation, in a structured and consistent manner.

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1 Summary Statement

1.1 This policy provides Cafcass with a framework to manage any potential restructures and possible reductions in the workforce of the organisation, in a structured and consistent manner. It applies to all Employees with the exception of Bank employees and self-employed contractors. In addition, this policy sets out the support that Cafcass may offer to employees in such circumstances. This policy supersedes all other restructuring and redundancy policies, which may have previously applied.

2 Aim

2.1 Cafcass undertakes workforce planning to reflect the strategic vision and priorities of the future. Nevertheless, it is recognised that changes in funding, shifting organisational requirements, changes in legislation and other external factors may impact on the strategic workforce plan.

2.2 The aim of this policy is to ensure that:

- The need to make redundancies is minimised wherever possible;
- Employees ‘at risk’ of redundancy have access to appropriate training opportunities;
- Redundancies are handled in a fair, consistent and sensitive manner
- The trade unions and employees are consulted/or negotiated with as appropriate in line with the partnership agreement about the impact of potential redundancies

3 Scope Of The Policy

3.1 This policy covers both reorganisations and restructuring within Cafcass.

3.2 Where employees are required to move their working location due to Organisational Change, the Relocation Policy should apply.

4 Definitions Of Redundancy

4.1 That definition of “Redundancy” within this policy is established by the Employment Rights Act 1996. A dismissal for reason of redundancy arises:
• Where the employer has ceased or intends to cease to carry on the business for the purposes of 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 is 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.

4.2 In this context, “ceased” or “diminished” means either permanently or temporarily, for whatever cause.

4.3 A redundancy situation will be avoided if suitable alternative employment is found for an individual. *

*Nb – See paragraph below regarding Trial Periods

5 Voluntary Redundancy

5.1 Prior to carrying out any selection procedure for redundancy, Cafcass will consider requests for early retirement, and voluntary severance/redundancy or redeployment where this accords with the needs of the business.

5.2 Any such requests will be considered in the interest of organisational efficiency, and require a robust business case. Requests for Voluntary severance or voluntary early retirement may be considered by the National Panel if it is:

• In the interest of efficiency;
• Where potential savings could be made;
• Where the impact of the ‘pension strain’ i.e. the cost to Cafcass of paying a pension early is outweighed by the above.

6 Identification Of Affected Employees

6.1 When a potential redundancy situation arises or a restructuring exercise is proposed, Cafcass will identify those employees in the pool for selection for potential redundancy.

6.2 Employees in the pool for selection will be identified as follows:
Where there is a group of employees carrying out the same job function and it is necessary to reduce the number of employees undertaking that function, all the employees in that group should be treated as being in the pool for potential redundancy selection and/or restructuring exercise; and/or

The pool for selection should be assessed against the objective criteria set out in paragraph 14.

6.3 At least two people should be appointed to objectively assess the pool against the selection criteria. Trade Unions will be offered the opportunity to be involved at this stage.

7 Consultation/ Negotiation

7.1 Cafcass should consult individually with employees if their position is identified as potentially redundant. In addition, where employees are affected by a redundancy situation or a restructure of the organisation, Cafcass should consult collectively with a view to reaching an agreement with the appropriate employee and trade union representatives.

8 Right To Be Accompanied

8.1 Employees have the right to be accompanied at individual consultation meetings for redundancy purposes, by a colleague or trade union representative.

9 Individual Consultation Procedure

9.1 If an employee’s position is at risk of redundancy, s/he should be invited to attend an individual consultation meeting with his/her manager and a member of the Human Resources team, and should be informed of Cafcass’ proposal to make redundancies. The employee should be provided with reasons why their position is at risk and the time frame in which Cafcass proposes that the redundancies may be made. The employee should also be provided with a copy of the selection criteria against which they and the other employees within the pool will be assessed and given an opportunity to discuss the criteria with their manager.

9.2 Each employee in the pool will then be assessed against the selection criteria set out in paragraph 14.

9.3 Following the application of the selection criteria, the employee is invited to attend a second consultation meeting. The employee should be entitled to receive a copy of their personal assessment but are not entitled to receive the assessment of any other employees facing redundancy. The employee is able to make representations about the
potential redundancy situation at this meeting. In the event that an employee is selected for redundancy as a result of the assessment, s/he should be informed of this decision and this should be confirmed in writing. The employee should also be informed that steps will be taken to avoid the redundancy, including consideration of suitable alternative employment in accordance with paragraph 12.

9.4 Cafcass should confirm in writing that the employee’s position has been made redundant only after steps to find suitable alternative employment have been exhausted. Where applicable, the employee will be informed of their entitlement to receive a redundancy payment, and the date when their employment will terminate. They should also be informed of their right to appeal against the decision as set out in paragraph 15 below.

10 Collective Consultation Procedure

10.1 The Statutory requirement for consultation where 20 or more employees are to be made redundant at one site in a period of 90 days or less, is:

- At least 30 days before the first termination takes effect (if between 20 and 99 employees are to be made redundant at one site, over a period of 90 days or less); and
- At least 90 days before the first termination takes effect (if 100 or more employees are to be made redundant at one site, over a period of 90 days or less). (Cafcass will consult with the trade unions at the earliest opportunity, and wherever possible the consultation period will commence in advance of these statutory time periods.);
- Where fewer than 20 employees are to be dismissed there is no specific statutory requirement to consult. However it is the established practice of Cafcass to consult individuals in these circumstances.

10.2 Cafcass will confirm the following details in writing to the appropriate employee and trade union representative in reasonable time for purposeful consultation to take place:

- The reason for the potential redundancies;
- The number and descriptions of employees whom it is proposed to dismiss by reason of redundancy;
- The selection criteria for the employees who may be dismissed;
- The proposed method of carrying out the dismissals, including the period over which dismissals are to take effect; and
- How redundancy payments will be calculated.
10.3 Cafcass will consult with the appropriate employees and trade union representatives about ways of:

- Avoiding or minimising the number of redundancy dismissals;
- Mitigating the consequences of the dismissals.

11 Measures To Avoid Or Minimise Redundancy

11.1 Wherever possible, employees should be offered alternative employment. Cafcass should explore appropriate measures, which might avoid or minimise the need for compulsory redundancy and facilitate redeployment. This will include:

- Consultation with the Trade Unions;
- Workforce Planning, and consideration of likely impact of future turnover, e.g. are there employees who are coming up to retirement, can the number of temporary employees be reduced?

11.2 All suitable posts should be 'ringfenced' for employees who are facing redundancy before being advertised either internally or externally.

11.3 Training, or retraining employees who are at risk of redundancy for different work will be fully considered where there is a business requirement:

- Offering trial periods of up to 4 weeks* in the new roles to assist the employee to adjust to the role. (*or extended by agreement);
- Providing employees at risk of redundancy with assistance in preparing for interviews, and undertaking a skills audit in order to ascertain the full range of transferable skills and abilities;
- Provide (subject to budgetary considerations) an outplacement service, which could include career counselling, job search, CV preparation etc.
- Engaging in external redeployment opportunities and networking with wider civil service and public sector vacancies register to facilitate and enhance potential for redeployment.

12 Suitable Alternative Employment

12.1 Suitable alternative employment is assessed as posts that are similar in nature to the employee’s existing post, in terms of the skill set required, and is of equivalent salary), and geographical location.
13 Selection Criteria For Suitable Alternative Employment

13.1 Employees will be ‘slotted in’ to equivalent posts that become available unless a ringfenced selection process is required where the number of employees at risk of redundancy exceeds the number of posts available.

13.2 Employees may be slotted into alternative roles even where not equivalent. This scenario will apply where they meet the 80% test (i.e. if the employee can provide evidence that they have been performing at least 80% of the new job competently for a minimum of 12 months, and have the aptitude to perform the remaining 20% of the role with appropriate training and development. The manager should decide if the 80% rule has been met with due regard paid to the content of relevant job descriptions and person specifications.

13.3 The 80% test has two aspects; the employee should show BOTH that they have been doing 80% of the new job, AND that they have been competent in the role in order to be transferred in. It would be inappropriate, at this stage, to use existing performance concerns to deselect candidates if they have not been addressed with the employees concerned.

13.4 A ‘ring-fenced’ selection process may be required if more than one employee can show an 80% claim to the new post.

13.5 Any remaining posts should be ‘ring fenced’ for employees who remain ‘at risk’ after dealing with 80% claims. This may be achieved by matching suitable vacancies (i.e. those which are at a comparable level in terms of salary, location and responsibility), to the employee remaining at risk of redundancy in the first instance. Employees who have already been confirmed to a post cannot be included in ring-fence processes for other vacant posts.

13.6 Where more than one employee ‘at risk’ is competing for the same suitable alternative employment opportunity, a robust and competitive selection process will be applied.

13.7 Where employee with disability as defined by the Disability Discrimination Act, 1995 is at risk of redundancy, then every effort must be made to make reasonable adjustments to facilitate the disabled employees’ continued employment.

13.8 Where the posts available are completely new, or substantially different “substantial” should be defined in terms of:
   i. Strategic impact,
   ii. Level of responsibility
   iii. Key skills required of the postholder
   iv. Nature/level of competencies attached to the role
   v. Reporting relationships
vi. Budget responsibility;

vii. Managing people

13.9 Where substantially different posts become available, employees who are at risk of redundancy will need to express an interest in the post if they wish to be considered for it. Employees who express an interest should be guaranteed a ‘ring-fence’ interview for the post prior to the post being advertised internally/externally, where an application form demonstrates that they meet the job requirements.

14 Selection Criteria For Compulsory Redundancy

*Any agreement to this Policy acknowledges that the Unions have stated their wish not to be involved in agreeing redundancy selection criteria.*

14.1 Employees will be assessed against the same specific objective criteria [e.g. experience, competence, performance *Sickness record, length of service, disciplinary record*] which is, wherever possible, supported by documentation.

*Where a disabled employee as defined by the Disability Discrimination Act, 1995 is at risk of redundancy, then every effort must be made to make reasonable adjustments as required by the Disability Discrimination Act 1995, this may include discounting any disability related sickness absence from the criteria used for selection.*

15 Right To Appeal

15.1 An employee has the right to appeal against their selection for redundancy. They must appeal in writing within 10 working days of the date of the letter notifying them that their position would be made redundant. The appeal letter should contain details of why they believe that the decision taken should be reconsidered. Appeals should ordinarily be heard by a more senior manager to the manager who made the initial decision. Employees should be invited to attend an appeal meeting in order to discuss the grounds of their appeal. Cafcass should consider whether the decision to make the employee redundant was reasonable and notify the employee in writing of the outcome of the appeal. Employees should have the right to be accompanied/represented at appeal hearings.

16 Redundancy Pay

16.1 Employees over the age of 50 (55 from 31 March 2010 subject to Local Government Pension Regulations) who are made redundant are entitled to receive immediate pension benefits in line with their service and contributions to the West Yorkshire Pension Fund in addition to any redundancy pay entitlement.
16.2 An employee may forfeit their right to a redundancy payment if they unreasonably refuse an offer of suitable alternative employment prior to their termination date.

17 Notice Of Termination

17.1 If an employee is made redundant they are entitled to receive notice of termination in line with the terms of their contract of employment.

18 Trial Period to ascertain the suitability of alternative employment offered

18.1 Where a suitable alternative employment opportunity is ‘substantially different’ to the redundant post both the employee and Cafcass should have a minimum 4 week* trial period in which to assess if mutually acceptable. At the end of this trial period, Cafcass may terminate the employment contract and a statutory redundancy payment should be made if the appropriate conditions are met.

* or extended by agreement

18.2 If an employee is given notice of redundancy, the employee should be allowed reasonable time off from Cafcass to look for alternative employment, attend interviews or receive careers advice outside of Cafcass. Cafcass should also signpost internal sources of support that are available including access to ‘Employee Assistance Programme’, and support from the Human Resources service.

19 Payment On Termination

19.1 Subject to a minimum period of two years service as required under the Employment Rights Act 1996, if an employee’s employment is terminated by reason of redundancy, they should receive the following:

- All outstanding wages to the termination date and a payment in lieu for accrued but untaken holiday entitlement and any other outstanding contractual entitlements.
- A payment in lieu of notice (if applicable); and
- A redundancy payment if they qualify for such a payment.

19.2 Cafcass provides an enhanced redundancy payment schedule over and above the statutory minimum. Payments will be calculated on the following basis:

19.3 Calculations will be based on your age and number of complete continuous years service in local government. The number of weeks the calculation is based on is:

- 1 week for each year of service up to age 23;
• 2 weeks pay for each year of service between ages 23 and 41;

• 3 weeks pay for each year of service age 41 and over.

The above is subject to a maximum of 66 weeks.

19.4 This is in comparison to the minimum statutory scheme as detailed below:

• 0.5 weeks’ pay for each full year of service where age during year is less than 22;

• 1.0 weeks’ pay for each full year of service where age during year is 22 or above but less than 41;

• 1.5 weeks’ pay for each full year of service where age during year is 41 or over

19.5 A week's pay is defined as average weekly pay when calculating redundancy payments.

Further guidance on this policy is available from Human Resources.

NB This policy has been agreed with the trade union side with the exception of a payments scheme.
Overarching Flowchart for Redundancy Process (1)

Prior to carrying out any redundancy selection procedure, consider the following for affected employees

Have any affected employees requested
- Voluntary early retirement?
- Voluntary severance?
- Voluntary redeployment?

Business Case Submitted to National Panel for consideration

If sufficient cases supported which avoid need for compulsory redundancy, end of process

Identify the 'pool' for redundancy selection, where cases rejected by National Panel and/or insufficient cases supported to avoid need for redundancy selection process refer to paragraph 6 of procedure

Hold meaningful consultation with Trade Unions and employees to determine selection criteria. Refer to paragraph 7. Be mindful of statutory obligations for consultation where collective redundancies are proposed

Individual consultation meetings offered to employees 'at risk' in accordance with paragraph 9.1

Assess each employee in the pool against the selection criteria under paragraph 14

Following application of selection criteria, second consultation meeting to employees selected for redundancy under paragraph 9.3

Measures taken to avoid or minimise redundancy in accordance with paragraph 9

Is suitable alternative employment available for the employee 'at risk'? Continued over page
Is suitable alternative employment available for the employee ‘at risk’? See paragraph 12.

No

Does the 80% rule apply? See paragraphs 13.2 – 13.5

Yes

Employees slotted in, unless number of employees at risk exceeds numbers of positions available

No

Are posts deemed to be ‘substantially different’? See paragraph 13.8

Yes

Employees remain at risk of redundancy

No

Employees express an interest and ringfenced interview takes place

Any remaining posts ringfenced for those employees who remain ‘at risk’

Any employees not slotted in under 80% rule and unsuccessful in ringfenced appointment process remain at risk of redundancy

Selection criteria for compulsory redundancy then applied in accordance with paragraph 14

Employees notified of their redundancy selection in writing and informed of their right of appeal in accordance with paragraph 15

Employees who do not appeal or whose appeals are rejected are given notice of redundancy and informed of redundancy payments due along with any pension implications in accordance with paragraphs 16 and 17

Employees under notice of redundancy are entitled to reasonable time off work to look for alternative employment, see paragraph 18.2