



CYNGOR SIR *POWYS* COUNTY COUNCIL
Re-employment of Former Employees Policy

This policy applies to all staff including school-based employees where the educational establishment has adopted this policy

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Policy History

Policy Date	Summary of change	Contact	Version/ Implementation Date	Review Date
November 2018	Review overdue, now completed. Changes to job titles and formatting. Policy has been slimmed-down	S Holcroft	3	December 2020

1. Purpose

- 1.1. This policy sets out the Council's approach to the re-employment of certain categories of former employees.
- 1.2. A failure to comply with this policy can lead to a loss of public confidence in the Council where an employee is re-employed shortly after a financial commitment has been made to secure the employee's termination of employment and also the possibility of undermining the Council's management of conduct and performance by the employment of individuals whose previous conduct and/or performance has fallen well below that expected by the Council.

2. Application

- 2.1. This policy applies to the direct employment, engagement on a contract for services, or engagement through an employment agency of former employees of the Council whose employment with the Council terminated in the following circumstances:
 - Dismissal on the grounds of redundancy, where the employee received a redundancy payment and, if aged over 55, early retirement benefits;
 - Dismissal on the grounds of misconduct or gross misconduct;
 - Dismissal on the grounds of a lack of capability (particularly poor performance); and
 - Resignation in circumstances where sufficient evidence existed to convene a formal hearing to consider dismissal on the grounds of misconduct or lack of capability

3. Scope

- 3.1. This policy applies to all service areas, including schools, where the policy has been adopted.

4. Redundancy and Efficiency Cases

Applies to former employees who left the Council's employment on the grounds of redundancy or efficiency and received redundancy or severance payments and/or early retirement benefits.

- 4.1. The Council will not engage such former employees on a contract of employment, or through an employment agency, nor engage them in a [contract for services](#), for a period of 12 months from the date of termination of their employment. After this period, restrictions on their re-employment are removed.
- 4.2. Engagement in a "contract for services" means appointing a genuinely self-employed individual such as a consultant where the relationship between the parties is not that of employer and employee.

Exceptions – Redundancy and Efficiency

- 4.3. Where there is a compelling case for re-employment or re-engagement inside the 12-month period, driven by the needs of the Council (for example, because of the skills and experience of a particular individual) or the circumstances of the former employee, approval must be sought from the Head of Workforce and OD.
- 4.4. The recruiting manager must submit a case in writing stating why an exception to the general policy should be made. No offer of employment, or contract for services, may be offered, nor arrangement with an employment agency be made until the Head of Workforce and OD has given express written permission to do so.
- 4.5. The following factors may make it likely that a request for re-employment or a contract for services will be agreed, although not guaranteed:
- The new employment is for a short period (temporary), or casual, or for very few hours a week, and/or is on a lower job grade than the original job;
 - The new employment is in a markedly different capacity (job role or service area) to the original job;
 - The employee has scarce skills which the Service has demonstrated (through a detailed business case) it cannot secure easily elsewhere.
- 4.6. There is no right of appeal against the decision of the Head of Workforce and OD.

5. Misconduct or Lack of Capability Cases

Applies to ex-employees who were dismissed on the grounds of misconduct or lack of capability, or who resigned in circumstances where sufficient evidence existed to convene a formal hearing to consider dismissal on these grounds.

- 5.1. The Council will not re-employ such ex-employees, nor engage their services through an employment agency nor under a contract for services, and there is no qualifying period, subject to the following exceptions outlined below.

Exceptions – Misconduct or Lack of Capability Cases

- 5.2. The Council recognises that there may be a case for re-employment in some circumstances, although it is highly unlikely.
- 5.3. The Council will not normally re-employ an employee who was dismissed on the grounds of gross misconduct. However, there may be very exceptional circumstances (such as a significant period of time since the dismissal) when re-employment may be considered. The final decision rests with the Head of Workforce and OD who will take account of the reasons for dismissal and the potential and/or likelihood for future misconduct.
- 5.4. The Council may re-employ an ex-employee who was dismissed on the grounds of lack of capability, or on grounds of misconduct short of gross misconduct. Re-employment will be subject to an assessment by the respective Head of Service and the Head of

Workforce and OD of the applicant's suitability for the new role in the light of the previous case.

6. Roles and Responsibilities

- 6.1. Heads of Service have the ultimate responsibility for ensuring that re-employment is managed appropriately and in accordance with this policy, in their respective services.

6.2 *Recruiting managers are responsible for:*

- 6.2.1. Checking job applicants' reasons for leaving any previous Council employment, at the shortlisting stage of recruitment.
- 6.2.2. Checking the previous employment history of consultants and potential agency workers to determine whether they have previous employment with the Council which has ended in circumstances covered in this policy.
- 6.2.3. If applicable, presenting a comprehensive case to the Head of Workforce and OD for re-employment outside the general policy.

6.3. The Head of Workforce and OD, when an exemption is sought, is responsible for:

- 6.3.1. Discussing the case with the recruiting manager and the relevant Head of Service.
- 6.3.2. Consulting with the Section 151 Officer, Monitoring Officer and other senior Officers where necessary.
- 6.3.3. Assessing the case for exceptional re-engagement outside the general policy and advising the recruiting manager in writing of their decision.
- 6.4. The Head of Workforce and OD is responsible for assessing the self-employed status of an ex-employee before a contract for services (for example, as a consultant) is offered. The Head of Workforce and OD may designate this responsibility to the Recruitment Manager.