


# Policy Document Control Sheet

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## Table of Revisions

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24.3.2020	Whole Document	Reference to Local Pay Progression Agreement  Inclusion of Monitoring Table	Joanne Benzies, HR Manager

## Contents

<b>Policy Document Control Sheet</b> .....	<b>i</b>
<b>Version Control Table</b> .....	<b>ii</b>
<b>Table of Revisions</b> .....	<b>ii</b>
<b>Contents</b> .....	<b>iii</b>
<b>1 Introduction</b> .....	<b>4</b>
<b>2 Purpose</b> .....	<b>4</b>
<b>3 Scope</b> .....	<b>4</b>
<b>4 Definitions</b> .....	<b>4</b>
<b>5 Duties</b> .....	<b>5</b>
5.1 Managers.....	5
5.2 Human Resources .....	5
<b>6 Main Content of Policy</b> .....	<b>5</b>
6.1 The Organisational Change Process.....	5
6.2 Formal Consultation.....	5
6.3 Requirements where Redundancy is proposed.....	5
6.4 Consult Staff Representatives and Staff.....	6
6.5 Individual Consultation.....	7
6.6 Implementation .....	7
6.7 Implementation Process.....	9
6.8 Redeployment/Redundancy.....	11
6.9 GENERAL POINTS .....	14
6.10 Data Protection .....	16
<b>7 Monitoring</b> .....	<b>16</b>
7.1 Compliance and Effectiveness Monitoring .....	16
7.2 Compliance and Effectiveness Monitoring Table.....	16
<b>8 Glossary of Terms</b> .....	<b>17</b>
<b>9 Associated Documentation</b> .....	<b>17</b>
<b>10 Appendices</b> .....	<b>17</b>
10.1 Appendix 1 – Appeals Hearing Procedure – for appeals against redundancy.....	18
10.2 APPENDIX 2 - Equality Analysis/Impact Assessment (v4/2018) .....	19

# 1 Introduction

County Durham and Darlington NHS Foundation Trust (the Trust) is committed to creating as secure an employment environment as possible by means of effective service and workforce planning. In meeting its responsibilities in providing the best possible health care within available resources, it may be necessary to consider changes in the organisation's requirements, which may include an assessment of the staffing resources.

Where reductions/skill mix scenarios are required, the Trust will make every effort to secure alternative roles for those displaced as a result of the organisation change to retain the skills and knowledge of our valued workforce. However, it is recognized that this may not always be possible, in which case a redundancy situation may be unavoidable.

## 2 Purpose

This procedure sets clear, understandable rules and procedures for managing the organisation change process including consultation and communication arrangements, redeployment and redundancy situations to ensure statutory obligations are met, and most importantly, fairness and consistency in the treatment of individuals.

When organisational change is likely, the Trust will consult with staff and appropriate staff representatives at the earliest practicable opportunity. There will be discussion/communication with staff representatives before consultation meetings are held with the staff.

## 3 Scope

This document outlines the procedures which will apply to all staff employed by the CDDFT Group who are affected by service or organisational change arising from service redesign and modernisation, and relates to any restructuring exercise whether this is team, departmental, directorate or organisation-wide including organisational change involving external organisations.

The 'Trust Group' includes County Durham & Darlington NHS Foundation Trust and its wholly owned subsidiaries. Any reference to the 'Trust' shall be interpreted as a reference to the Trust Group.

This policy/procedure also applies to persons who, although not employed by the Trust Group, have authorised access to the Internet through the computers owned or managed by the Trust Group. This includes staff working for any affiliated organisations

## 4 Definitions

**Redundancy** occurs in three situations when an employee is dismissed due to: the actual or intended closure of the whole business; the actual or intended closure of the business at a particular workplace; a reduction in the need for employees to carry out work of a particular kind

## 5 Duties

### 5.1 Managers

Managers should liaise with the HR Department at the earliest stage possible when formulating any changes to organisational structures, working arrangements or job design.

HR advice should be sought at all stages in relation to any aspects of the process that are unusual or present greater legal risk such as when dealing with staff who are on maternity leave or shared parental leave

### 5.2 Human Resources

The HR Department will assist the manager in developing the proposals, planning the consultation, provide support during the consultation process, and help facilitate redeployment of staff.

The HR Department will co-ordinate redeployment vacancies, and co-ordinate their publication where two or more changes are occurring at the same time, i.e. where there is the potential for two managers to look to redeploy different staff into the same available post.

The HR Department will issue the contract of employment/amendment to contract letter

## 6 Main Content of Policy

### 6.1 The Organisational Change Process

The Trust is committed to involving and empowering employees to deliver its strategic vision. The NHS Staff Constitution sets out our responsibility to actively engage staff in decisions that affect them and the services they provide. All staff will be empowered to put forward their views on ways to deliver better services for our patients. This includes staff involvement in the management of change, service improvements and the way in which their teams function

### 6.2 Formal Consultation

Consultation with recognised trade unions will take place at the earliest possible opportunity. Management will consider and reply to any points made by employee representatives

The forum for joint consultation will be the Joint Consultative and Negotiation Committee (JCNC). However, this shall not prevent management consulting directly with staff and their staff representatives on any changes where these are confined to an individual department or part of the organisation, as long as the JCNC is notified.

As soon as possible tell staff representatives and staff what is going to happen, when it will happen, and what the workforce impact will be and share a copy of the consultation document (template document available on StaffNet or from the HR Management Team).

### 6.3 Requirements where Redundancy is proposed

Management will consult with the individual employees concerned and with recognised trade unions whose members will be involved. If the employees to be

made redundant are of a group or description in respect of which a trade union is recognised then the Trust will consult with representatives of that trade union even if one or more, or all of the affected members are not members of that trade union.

Consultation must begin at the earliest opportunity prior to redundancies taking place. In any event where:

- **more than 100** redundancies are proposed within a 90 day period, then **at least 45 days before** the dismissal takes effect
- **20 to 99** redundancies are proposed within a 90 day period, **then at least 30 days** before the first dismissal takes effect.
- **Less than 20 redundancies** - although there is no statutory consultation period it is regarded as good practice to have a short period of consultation with staff affected by the proposal.

The Trust is required by law to notify the Secretary of State about collective redundancies of 20 or more employees within a period of 90 days or less. Form HR1 is available from the Gov.uk website and must be submitted to the Redundancy Payments Service (RPS), acting on behalf of the Secretary of State for Business, Innovation and Skills. The HR Department will arrange to provide this notification.

Redundancy is defined within employment law as dismissal, wholly or mainly attributable to actual or intended cessation or reduction of service provided, or a reduction in the requirements for the employee's work.

Where reduction in workforce levels become necessary, the Trust will attempt, as far as is practicable, to avoid compulsory redundancies. Where redundancy is, in management's view, the only viable course of action, then management will initiate the necessary procedures.

The method of selection for redeployment and redundancy will normally be agreed beforehand with the appropriate trade unions, employee organisations and other representatives. The selection criteria for redeployment and redundancy will be agreed on a case by case basis. Where agreement cannot be reached after discussions, or where employee representatives refuse to discuss the matter, management reserves the right to implement the procedure.

There will be no decision on compulsory redundancy prior to discussion and agreement with the Director of Workforce and Organisation Development or his/her representative.

#### **6.4 Consult Staff Representatives and Staff**

A joint meeting will normally be held with all staff in the affected department, and their trade union representatives should be present. The trade union representatives may have previously been informed of the nature of the change by the manager. Employees and staff representatives should also be given the opportunity to make or suggest alternatives to the proposed changes/redundancy.

After consideration of all comments/feedback received during the consultation period, there may be occasions when the senior management responsible for the service will wish to formally approve the planned changes prior to implementation

The finalised proposal/structure should be circulated to all staff prior to the commencement of implementation

## 6.5 Individual Consultation

Individual consultation meetings will be offered, where staff can discuss the personal impact of the proposed change and explore options. All individual consultation meetings should be documented using the template Employee Individual Consultation Form is available on StaffNet or from the HR Management Team.

**Representation:** The employee may be accompanied by a trade union representative, an official employed by a trade union or a colleague employed by the Trust but not someone acting in a legal capacity. Employees may only have one companion and the companion should not be someone who would, in the view of the Trust, prejudice the process.

A Trust employee who has agreed to accompany a colleague (also employed by the Trust) is entitled to take reasonable paid time off to fulfill that responsibility, where possible.

The companion should be allowed to address the meeting/hearing and to put and sum up the employee's case, but does not have the right to answer questions on the employee's behalf.

It is the employee's responsibility to arrange their own representation

It is essential that consultation takes place with individual employees who are potentially affected by redundancies as far in advance as possible. This should continue throughout the process as it is important that employees are kept informed of the situation and offered details of support facilities such as the Prior Consideration Process, employee support mechanisms available, redeployment, time off to look for other jobs etc. During the individual consultation meeting any existing flexible working arrangements will be discussed and reviewed

This is particularly important in the case of employees absent from work due to maternity leave, shared parental leave, ill health, career break, secondment etc, where a visit/meeting should be arranged to such employees to explain the situation and give relevant information to them in writing.

## 6.6 Implementation

Those staff whose posts in the revised structure:-

- cease to exist
- change substantially, for example where there is a change of banding change of base
- where numbers in a particular role will be reduced and staff exceed the number of posts available in the new structure

Will be declared 'at risk' from the date they are informed of the final position/structure etc.

### 6.6.1 Specific Circumstances

There are two specific circumstances which need to be taken into consideration when planning the implementation process:

Secondments/Temporary re-grades/acting arrangements

Employees on secondment or acting arrangements from their substantive posts will be considered against their substantive posts when determining eligibility for posts in the new structure

Staff on maternity leave and shared parental leave during a redundancy exercise

Under the terms of Regulation 10 of the Maternity and Parental Leave Regulations 1999 (MPLR) and Regulation 39 of the Shared Parental Leave Regulations 2014(SPLR), where it is not practicable by reason of redundancy for an employer to continue to employ someone on maternity leave or shared parental leave under their existing contract of employment, the employee is entitled to be offered a suitable alternative vacancy before the end of their current role. This vacancy should be offered in precedence over other employees who are also at risk of redundancy subject to the following conditions:

- the work offered must be both suitable for the employee on maternity leave or shared parental leave and appropriate for them to do when they return to work; and
- the contract applying to the new job must not be 'substantially less favourable' than the previous contract. They must be capable of doing the work, and the place where they are required to work – and all other terms and conditions of her or his employment – must be suitable.

For each member of staff within the affected group on maternity leave or shared parental leave, the employer will determine whether a post in the structure is a suitable alternative in terms of its function and all other terms and conditions of employment, including location. Once having done so, the employer will offer the identified post to the relevant member of staff.

This scenario may arise in two different types of circumstances and the requirement to offer the post to the relevant member of staff will arise at different stages in the process. Examples of each are set out below. Managers should consult with HR and/or obtain legal advice (via HR) if it is unclear which scenario might apply.

Example One

*The Trust takes a decision to reduce the number of Band 5 Staff Nurses working in a day treatment center from seven to five. Apart for the reduction in headcount, the roles remain the same and a selection process is undertaken to identify which of the post-holders will be displaced.*

In this scenario, it will be "not practicable, by reason of redundancy, for the Trust to continue to employ the member of staff" once the selection process has been completed and the Trust has established that the member of staff will not be retained in one of the remaining roles. At this point, the member of staff will be entitled to be offered the "suitable alternative vacancy".

Example Two

*The Trust takes a decision to reduce the number of staff employed in servicing its website. In doing so it decides that two posts will be removed entirely. These posts are the roles of External Web Content Manager (which deals with the presentation of information for patients and the public) and Intranet Content Manager (which deals with internal communications and updates). The new role that will be established is the role of Electronic Content Editor. As the post is entirely new, the two existing roles will be*



*deleted and the displaced post holders will be eligible to go through a competitive recruitment process to the new role.*

In this scenario, it will be “not practicable, by reason of redundancy, for the Trust to continue to employ the member of staff” at the point at which the decision to delete the two posts entirely is taken and so if one of the affected employees is protected under the MPLR or SPLR then they will be entitled to be offered this post in preference to the other employee without competitive recruitment unless there is another post that they could also be offered.

## 6.7 Implementation Process

Where the change involves a restructure/reduction in workforce numbers the following is an outline process. However other processes can be used in agreement with staff representatives

In circumstances where a job description remains unchanged, these posts should be clearly shown on the structure at the start of the consultation period and it should be highlighted that they are not affected by the change process (unless there is a simple reduction in headcount).

Where job roles change significantly or new roles are created, a job draft description should be issued with the consultation document at the start of the consultation period to allow for comments. If the draft job description is significantly different to any other in the organisation then it should be issued with an indicative banding and will be subject to the appropriate job matching process

### 6.7.1 Stage 1 – Slotting In

The job description for each post in the new structure will be assessed against duties and responsibilities undertaken within current substantive posts. This will be undertaken jointly by management, HR and staff representatives.

The following criteria will be used to determine whether the post is substantially the same and therefore whether the individual is eligible to slot in:

- the post is substantially (75%) the same as the individual’s previous post in terms of function, job content and the range of responsibilities undertaken;
- the pay band of the post is the same as the employee’s current substantive pay band;
- there are more or an equal amount of posts to staff numbers for each new role/job description
- the hours of the new post are no less than the current contracted hours of the individual concerned. In circumstances where the hours in the new post are more that the individual’s current contracted hours and the above criteria have been met, then slotting in would occur at their current substantive contracted hours with the remaining hours needing to be filled through an alternative route.

All of the above criteria must be met for slotting in to occur.

Details of slotting in will be circulated to all staff involved in the change exercise

**Members of staff who have been slotted in are deemed to have been formally appointed into the structure and therefore are not at risk and will not be eligible to enter into further competition until any remaining posts are advertised via the usual recruitment mechanisms.**

Where an employee 'slots in' to a post, the pay and conditions (as appropriate) will be confirmed in writing to the employee along with any other relevant points.

### 6.7.2 Stage 2 – Limited Competition

This stage should be used where there is a need to identify which employees are to be recruited to new posts where the remit of new posts are different and/or there is a reduction in like posts within the defined areas. Note: the different approaches required in respect of the special circumstances as outlined in Section 6.6.1 above depending on whether it is new posts or a simple headcount reduction. It is recommended that a cascade approach is used where there is a large structure to appoint to, so that managers are already in post before selection of staff for whom they are responsible.

Remaining posts will be available for limited competition potentially within an agreed ring-fenced pool. Pools will be determined with reference to the scale of the organisational change. Where structures are designed a "pool" of staff will be matched against each "new" function, based on current roles.

Employees can only apply for a particular ring-fenced post if the following applies:

- a) Role, responsibility and job content as defined by job description and person specification. In all cases, staff **must** meet the essential criteria as detailed on the person specification to be considered for the post.
- b) Salary Band. In terms of band considerations, staff may only be considered for posts within their 'pool' that match the current Band of their post or those one Band above or below where they meet the essential criteria. **However, it is anticipated that staff would make every effort to apply for posts commensurate with their current pay band in the first instance to avoid protection arrangements being applicable. Failure to do so may result in protection not applying.**
- c) Hours – wherever possible employees will be allocated to posts on their current contracted hours

Employees will be invited to express an interest in a maximum number of posts (where they meet the essential requirements of the person specification for the post) and they will be asked to complete an Expression of Interest Form (available on StaffNet or from the HR Management Team)

Each person will be interviewed by a properly constituted interview panel. The Selection Process will be in accordance with the Trust General Recruitment Procedure

#### Offers and acceptance of new posts

Employees should be informed by the appropriate Manager of the outcome of the selection process. New contracts/amendment letters should be

issued to those confirmed in post and Payroll Services should be notified using usual procedures

Where an individual is offered a post in the new structure they must decide whether to accept or decline that offer within three calendar days. Where the post is accepted they will take no further part in the appointments process until open recruitment, and any other expression of interest is withdrawn. Should the offer be declined they will continue for any other expression of interest they have made. The employee should be informed of the consequences of declining the offer of the post that is deemed as suitable alternative employment i.e. they may negate their right to a redundancy payment.

#### Employees Appointed to the New Structure at a lower Band

Employees will be invited to a meeting with their manager and HR where the protection arrangements will be explained in line with the Trust Protection of Pay & Conditions of Service Policy. The employee has the right to be accompanied at the meeting.

At the meeting details of the Trust Prior Consideration process will be discussed and the employee will be placed on the prior consideration register for the duration of their protection period. If the employee is offered and refuses a suitable post at their former Band during the pay protection period, pay protection will cease.

The protection arrangements will normally become effective on the date the employee starts in their new role.

The employee will be provided with a written summary of the meeting

#### Employees not appointed to posts in the new structure

The Manager (or Chair of the interview panel if different) will meet in person with the employee and inform them of the outcome of the interview and provide feedback and explain the next steps in the process

## **6.8 Redeployment/Redundancy**

The Trust will make all reasonable attempts to find suitable alternative employment for potentially redundant employees including appropriate retraining.

Staff who have not secured a post in the new structure will have a meeting with their manager and HR.

The employee should be informed in writing of the meeting and their right to be accompanied (see Section 5). At least 7 calendar days' notice should be given of the meeting to allow representation to be arranged, unless the notice is waived by the employee.

Points for discussion in the meeting will normally include the following:

### **6.8.1 Redeployment - the Trust Prior Consideration Process will be explained**

Employees 'at risk' will be redeployed into posts at the same level as their previous substantive post.

Employees who have the protection of the MPLR and/or SPLR should be offered suitable alternative vacancies ahead of employees who do not have such protection as set out above in Section 6.6.1. Such employees may be offered more than one suitable alternative vacancy

There may be occasions where an employee is redeployed to a post one band below substantive band with protection – in these circumstances the provisions in the Trust Policy on the Protection of Pay and Conditions will apply

Whilst employees ‘at risk’ are free to apply for promotion or higher-graded posts, their application will be considered as part of the recruitment process

Appointment will be primarily based on the person specification for the new post. However, there may be circumstances where consideration would need to be given to an agreed reasonable period of training - the manager may identify that there is necessary training/development needs to meet requirement of new job.

There may be occasions where employees are redeployed into an alternative role on a fixed term basis, whilst retaining their existing permanent contract basis with the Trust and any associated redundancy rights. The employee will remain on the Prior Consideration Register for redeployment to a permanent role the duration of this fixed term appointment

## 6.8.2 Redundancy

The employee will be issued with formal notice of redundancy and will be provided with an estimate of redundancy payment. Redundancy payments will be made in accordance with the employee’s conditions of service (see NHS National Conditions of Service Handbook - section 16)

For employees on SCL Terms & Conditions of Service please refer to the SCL T&Cs handbook for details of redundancy entitlements and payments

The statutory or contractual periods (whichever is the longer) of notice of dismissal on grounds of redundancy will apply. Employees will be required to work notice periods. Pay in lieu of notice may only be made in exceptional circumstances.

The normal arrangements regarding outstanding annual leave etc. shall apply in respect of termination of employment.

The employee should be advised that they will remain on the Prior Consideration Register throughout the notice period.

An employee may leave before the expiry of their notice periods if:

- a) It is agreed in writing to vary or waive their right to notice, involving no loss of unfair dismissal or redundancy rights
- b) The employee gives written counter notice (which may be less than the statutory or contractual notice periods) after being given notice by the Trust, and this notice is accepted by the Trust. There would be no loss of unfair dismissal or redundancy payments rights.

Support should be made available for employees at risk of redundancy, which may include how to write CV's, complete application forms, interview skills for those seeking alternative work, Staff Counselling Facilities etc. .

The Trust will allow reasonable time off with pay to employees who are under formal notice of redundancy in order that they may seek employment or arrange training outside the Trust. Employees may be required to show evidence of appointments and/or interviews but where they are genuinely unable to do so, this will not normally prevent reasonable release. The normal rule of prior permission from management for the time off will apply.

Employee will be made aware that due to being made redundant they will not be permitted to return to work in the Trust in ANY capacity for a period of 12 months.

Employees shall not be entitled to redundancy payments if, at the date of termination of the contract or within four weeks of the termination date they have obtained, been offered or unreasonably refused to apply for or accept suitable alternative health service employment. For this reason payment will be made in the pay period following the redundancy date. NOTE: this does not apply to employees on SCL Terms & Conditions of Service

### **6.8.3 Acceptance of Suitable Alternative Employment (SAE)**

An offer of SAE will be made in writing and in sufficient detail to show the significant differences from the previous employment. The offer must be made before the employment under the previous contract ends. The offer must be for the new job to start either immediately after the end of the old job or after a time interval of not more than four weeks.

An employee who accepts an offer of alternative employment will be allowed a trial period to see if the post is really suitable. This is for four weeks from leaving the previous job but may be extended (maximum 6 months), by prior written agreement with the employee, in order to retrain him/her for the new job.

If the employee works beyond the four week period or an agreed extended period, they will be deemed to have accepted the new post and any redundancy entitlement will be lost.

Employees who accept suitable alternative employment forfeit their right to a redundancy payment.

### **6.8.4 Refusal of offer of Suitable Alternative Employment**

Employees who refuse offers of suitable alternative employment made before termination of employment or after a trial period will forfeit their right to a redundancy payment. They will still be made redundant but will forfeit their right to redundancy payment due to rejecting suitable alternative employment.

### **6.8.5 Appeal Arrangements**

Where an employee is dissatisfied with the decision to make them redundant, then they can appeal against that decision (the Appeals Registration Form can be used – available on StaffNet or from the HR Management Team). The appeal should be lodged within 14 days of the

letter confirming the redundancy. The appeal should be made in writing to the Business Partner (Operations).

The appeal would be heard by the relevant Director or their nominee or a more senior manager than the one who conducted the termination meeting provided that they have not been directly involved in the appointment/selection process. The appeal will be heard in accordance with the Appeals Procedure detailed in Appendix 1.

A HR Manager will be present at an Appeal Hearing to provide procedural advice.

It is important that both parties exchange written statements of their case seven (7) calendar days prior to the appeal hearing and that the members of the appeal panel are presented with copy statements to afford the panel the opportunity to read and understand the case.

The decision of the appeal hearing will be confirmed in writing to the employee within fourteen (14) calendar days of the oral decision.

The appeal hearing is the final stage of the internal procedure and any decision will be final

## **6.9 GENERAL POINTS**

### **6.9.1 Vacancies**

There are occasions when changes are anticipated and vacancies should therefore be held in order to facilitate redeployment

### **6.9.2 Temporary Contracts**

There may be times, dependent upon the current workforce needs of the Trust, when staff may be appointed on fixed term contracts. These fixed term contracts will include a mobility/redeployment clause, as it may be necessary to move fixed term employees to make posts available for redeployment of permanent staff

### **6.9.3 Prior Consideration**

In exceptional circumstances, and with agreement with HR and the union representative, a member of staff may be placed on the Prior Consideration Register during the consultation stage

### **6.9.4 Protection of Pay and Conditions Arrangements**

An employee who is transferred to a new post as a result of organisational change and suffers a reduction in earnings will be entitled to the provisions outlined in the Trust Policy on the Protection of Pay and Conditions.

### **6.9.5 Excess Travel Payments**

An employee who is required to move base as a result of organisational change is entitled to excess travel payments for a maximum period of two years effective from the date of transfer to the new base. Employees should note that certain events or factors can cause the original level of payment to be increased, reduced or cancelled if they occur during the entitlement

period (**NOTE:** the dates of the original entitlement period remain unchanged). These can be summarised as follows:

Cause	Effect
Any Absence (e.g. sick leave, maternity leave, employment break)	Payment suspended during the period of the leave.
Business travel starting at home and finishing at new base or vice versa	Paid for the business mileage in line with NHS National T&Cs. To establish if excess miles are also payable in this scenario please contact the Human Resources Team.
Voluntary change of base, (i.e. at request of staff member).	Assistance with expenses ceases as at date of voluntary move to new base
Voluntary Change of post / position at same base	Payment ceases
Voluntary increase in days of duty	No increase in payment, (i.e. cannot claim for voluntary increase / voluntary overtime
Increase in days of duty at request of management	Proportional increase in payment, provided authorised by line manager
Decrease in days of duty, whether voluntary or at request of management	Proportional decrease in payment.

Managers and Employees are advised to contact the Human Resource Management Team for confirmation of impact on excess travel payments.

### 6.9.6 Staff Support

The Trust recognises that during times of change, additional support may be required by staff. This support can be provided by Line Managers, HR Department, Trade Unions, Professional Organisations, Occupational Health & Wellbeing and Staff Counseling Services and the Learning and Organisation Development Department. The Trust will ensure that employees facing compulsory redundancy or premature retirement will have access to counselling facilities concerning benefits and future options

### 6.9.7 Transfer of Undertaking (Protection of Employment) Regulations 2006 – (TUPE)

Where it is proposed to transfer all or part of an ‘undertaking’ (service) within the Trust Group to some other organisation, it is possible that the terms of

TUPE will apply. Under TUPE, the new employee’s contract of employment is automatically taken over by the new ‘employer’ as if the contract had originally been made with the employee.

Continuous service with the Trust would count as continuous service with the new employer.

Where it is agreed between the Trust and the employer from whom staff are transferring (the ‘transferee’) or the employer to whom Trust employees are transferring (the ‘transferor’) that TUPE applies, the Trust accepts its duty to consult with the appropriate trade unions on the proposed transfer, including the reasons for, timescales and implications of the proposal.

Where an employee objects to such a transfer, they will be deemed to have resigned.

Manager must discuss any proposed transfers of an undertaking with their nominated HR Manager at the earliest opportunity to ensure the appropriate procedure is followed.

### 6.9.8 Pay Step/Pay Progression

There may be circumstances where a move to a different role due to organisational change may require a change in an employee’s pay step date. Please refer to the Pay Progression Local Agreement.

### 6.10 Data Protection

All employees working in the NHS are bound by a legal duty of confidence to protect personal information they may come into contact with during the course of their work. This is not just a requirement of their contractual responsibilities but also a requirement within Data Protection Legislation which the Trust must comply with

## 7 Monitoring

### 7.1 Compliance and Effectiveness Monitoring

Compliance with this policy will be monitored as outlined in the table below.

### 7.2 Compliance and Effectiveness Monitoring Table

Monitoring Criterion	Response
Who will perform the monitoring?	Human Resources/Workforce Compliance
What are you monitoring?	The application and compliance with this procedure
When will the monitoring be performed?	Annually
How are you going to monitor?	Review sample of five complete Organisational Change processes



What will happen if any shortfalls are identified?	Education and learning lessons shared with Care Group/Corporate managers and HR Management Team
Where will the results of the monitoring be reported?	Workforce Engagement & Improvement Group
How will the resulting action plan be progressed and monitored?	Via monthly HR Team meetings
How will learning take place?	Feedback & lessons learned to Managers and HR Reps involved in process Via monthly HR Team Meeting

## 8 Glossary of Terms

JCNC – Joint Consultative & Negotiating Committee  
 TUPE – Transfer of Undertaking (Protection of Employment) Regulations  
 MPLR – Maternity and Parental Leave Regulations  
 SPLR – Shared Parental Leave Regulations  
 ACAS – Advisory, Conciliation and Arbitration Service

## 9 Associated Documentation

POL/PD/0036 Protection of Pay and Conditions of Service  
 LA/PD/0003 Pay Progression Local Agreement  
 Maternity and Parental Leave Regulations 1999  
 Shared Parental Leave Regulations 2014  
 NHS National Terms & Conditions of Service

## 10 Appendices

Appendix 1 - Appeals Hearing Procedure – for appeals against Redundancy  
 Appendix 2 - Equality Impact Assessment

## 10.1 Appendix 1 – Appeals Hearing Procedure – for appeals against redundancy

The Chair will:

- make the necessary introductions
- explain and make it clear to the employee and all present that this is an Appeal Hearing
- The purpose of the meeting should be clearly stated:
  - To consider their appeal against the decision of redundancy
  - The format of the Appeal Hearing

An adjournment may be called by either party at any time during the hearing.

### Format of Hearing

- The employee or their representative shall state the case for their appeal
- The Manager and Panel will be entitled to question the employee following presentation of their case.
- The Manager shall state the management case
- The Employee or their representative and Panel will be entitled to question the Manager following presentation of their case.
- Both parties are given an opportunity to summarise their case. The employee or the employee's representative has the right to speak last.
- **Normally in summing up, neither party may introduce any new evidence. However if** at this point, further evidence to support the appeal is required, the members of the Panel may, at their discretion, adjourn in order that either party may produce further evidence.
- All parties except the Panel shall withdraw.

### Adjournment

- The Panel will adjourn in private only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary both parties shall return, notwithstanding that only one is concerned with the point given rise to doubt.
- After private deliberation it is hoped a decision will be reached on the day of the hearing. In such instances the Chairperson will recall the employee and management and outline the decision, giving appropriate reasons

The Chairperson will confirm to the employee and their representative in writing the decision of the appeal panel within 14 calendar days of the hearing.

## 10.2 APPENDIX 2 - Equality Analysis/Impact Assessment (v4/2018)

**Division/Department:**

Workforce & Organisation Development

**Title of policy, procedure, decision, project, function or service:**

Managing Organisational Change and Redundancy Procedure

**Lead person responsible:**

HR Manager

**People involved with completing this:**

Policy Review Forum  
Policy Review Group

**Type of policy, procedure, decision, project, function or service:**

Existing

New/proposed

Changed

**Date Completed:**

February 2020



**Step 1 – Scoping your analysis**

**What is the aim of your policy, procedure, project, decision, function or service and how does it relate to equality?**

To set clear, understandable rules and procedures for dealing with organizational change and redeployment and redundancy situations to ensure that statutory obligations are met and, most importantly, fairness and consistency in the treatment of individual employees. To ensure the sensitive handling of redundant employees in order to minimize stressful situations

**Who is the policy, procedure, project, decision, function or service going to benefit and how?**

Employees to minimise the impact of redundancy, redeployment and downgrading

**What barriers are there to achieving these outcomes?**

N/A

**How will you put your policy, procedure, project, decision, function or service into practice?**

Via the normal communication channels and line management arrangements with support from the HR Team for professional advice.

**Does this policy link, align or conflict with any other policy, procedure, project, decision, function or service?**

Resolution Procedure  
Protection of Pay and Conditions of Service Policy

**Step 2 – Collecting your information**

**What existing information / data do you have?**

ESR records redundancies and there is information relating to age, sex/gender, ethnicity, pregnancy/maternity leave and marital status.  
Records of appeals or concerns relating to procedure

**Who have you consulted with?**

Staff representatives have been consulted through the policy review group. Staff have been consulted through the Policy Review Forum which is made up of staff with protected characteristics protected under the Equality Act 2010.

**What are the gaps and how do you plan to collect what is missing?**

We do not hold information relating to sexual orientation, disability, religion or belief

**Step 3 – What is the impact?**

**Using the information from Step 2 explain if there is an impact or potential for impact on staff or people in the community with characteristics protected under the Equality Act 2010?**

**Ethnicity or Race**

No differential impact known

**Sex/Gender**

Women are primary carers for children and elder care and this may reduce their ability to take suitable alternative employment due to the inability to change work patterns or base

**Age**

Those nearer retirement have the option to use their redundancy payment to enhance their pension and retire early

**Disability**

Individual discussions will explore adaptations required to work area and patterns, travel issues, care for disable dependents etc. Reasonable adjustments will be considered when exploring suitable alternative employment

**Religion or Belief**

No differential impact known

**Sexual Orientation**

No differential impact known

**Marriage and Civil Partnership (applies to workforce issues only)**

No differential impact known

**Pregnancy and Maternity**

Under the terms of the Maternity and Parental Leave Regulations, employees on maternity leave who are affected by a redundancy exercise are automatically entitled to be offered an alternative position in precedence over other employees who are also at risk of redundancy, subject to certain conditions. This is therefore a legal justification for this different treatment of employees on maternity leave.

**Gender Reassignment**

No differential impact known

**Other socially excluded groups or communities e.g. rural community, socially excluded, carers, areas of deprivation, low literacy skills etc.**

No differential impact known

**Step 4 – What are the differences?**

**Are any groups affected in a different way to others as a result of the policy, procedure, project, decision, function or service?**

None identified

**Does your policy, procedure, project, decision, function or service discriminate against anyone with characteristics protected under the Equality Act 2010?**

Yes  No

**If yes, explain the justification for this. If it cannot be justified, how are you going to change it to remove or mitigate the affect?**

**Step 5 – Make a decision based on steps 2 - 4**

**If you are in a position to introduce the policy, procedure, project, decision, function or service? Clearly show how this has been decided.**

The procedure should be adopted as it ensures the Trust meets is statutory obligations and ensures fair and consistent treatment of staff

**If you are in a position to introduce the policy, procedure, project, decision, function or service, but still have information to collect, changes to make or actions to complete to ensure all people affected have been covered please list:**

**How are you going to monitor this policy, procedure, project or service, how often and who will be responsible?**

On an Annual basis, Workforce & OD will review a sample of five complete Organisational Change processes.