

ORGANISATIONAL CHANGE AND PAY PROTECTION POLICY

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CITY HOSPITALS SUNDERLAND NHS FOUNDATION TRUST

DOCUMENT APPROVAL PROFORMA

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1. INTRODUCTION

- 1.1** City Hospitals Sunderland NHS Foundation Trust (“the Trust”), is committed to providing maximum employment security for its employees. However there may be occasions when services need to be reorganised, which in turn may lead to changes to staffing requirements.
- 1.2** Whilst it is the Trust’s responsibility to determine the size and composition of staffing levels at all times, we acknowledge the essential and valuable contribution that our employees make towards service delivery and are therefore committed to having meaningful consultation with them and accredited Trade Unions as early as possible, about any proposed changes to staffing.
- 1.3** By adopting this ‘partnership’ approach, the Trust aims to ensure that potential disruption to services and job losses are minimised and that any required changes are successfully implemented.
- 1.4** The Trust is committed to avoiding compulsory redundancies and to retaining an appropriate balance of skills and expertise to meet the needs of patients. As such, the Trust will always seek to re-deploy employees as part of any change process and will only pursue compulsory redundancy as a last resort.
- 1.5** Implementation of this policy will be fair and consistent and without prejudice to any employee on the grounds of age, ethnicity or culture, religion or beliefs, sexual orientation, gender or disability.
- 1.6** To ensure fair and consistent practice, all decisions on staff changes will only be made within the framework of this policy following initial discussions with a representative from the Human Resources Department, on-going support from the designated HR representative and in consultation with accredited staff side organisations
- 1.7** Any decisions about employment matters will reflect legislative requirements and compliance with local and/or national agreements, as appropriate.

2. PURPOSE AND SCOPE

- 2.1** The purpose of this policy is to:
- a) Set out the principles and procedures that underpin the framework for:
- Managing security of employment and the change process;
 - Assisting employees affected by change;
 - Pay protection arrangements.
- b) Ensure that the Trust complies with statutory requirements and good management practice.

2.2 The policy applies to all employees of the Trust

3. DUTIES

3.1 Board of Directors

The Board of Directors is responsible for ensuring that there is a robust system of Corporate Governance within the organisation. This includes ensuring there is a systematic process for the management of organisational change.

3.2 Chief Executive

The Chief Executive is ultimately responsible for ensuring effective corporate governance within the organisation.

3.3 Director of Human Resources

The Director of Human Resources is the named officer responsible for ensuring the content of this policy is applied fairly and consistently across the Trust and ensuring that appropriate advice and guidance on its use is provided to all parties involved in organisational change.

3.4 Directorate Managers/Department Heads

The Directorate Manager/Department Head is responsible for considering the impact this policy may have on restructures or redesign of teams and departments within their service. They are also responsible for overseeing the dissemination of implementation about this policy across their service at any time when organisational change may impact on Trust employees.

3.5 Employees

Employees are responsible for taking due consideration of this policy where organisational change poses an impact on their work. Employees are responsible for participating actively throughout the process. To facilitate this, employees will have the opportunity to attend briefings and have easy access to the relevant manager and HR representative.

4. DEFINITIONS

4.1 Organisational Change

Organisational change means any structural or managerial change in the organisation of service provision. All organisations inevitably need to change their structures, roles, systems and processes to take account of developments in knowledge, technology and practice and to ensure that services are provided in the most effective and efficient manner possible.

An organisational change, as it affects an individual employee or group of employees, is any change that alters their contracted:

- Work patterns;
- Work locations;

- Grade, pay or other terms and conditions of employment;
- The number of posts;
- The fundamental nature of their roles, duties and/or responsibilities;
- The employer, e.g. through TUPE (see 4.9) transfers or statutory instruments.

4.2 Redundancy

Redundancy occurs where:

- the employer has ceased, or intends to cease continuing the business, or
- the requirements for employees to perform work of a specific type or to conduct it at the location in which they are employed has ceased or diminished.

For collective consultation purposes, redundancy applies where the workforce is reorganised and there is:

- less work, and/or;
- changes in conditions that result in the new job being quite different from the old one, and/or;
- work put out to contract by the employer, in which case there may be a TUPE transfer.

4.3 Basic Pay

The monthly amount paid in respect of basic contracted hours worked within the standard working week on the day immediately preceding the first day of employment in the new post. It will also include any distinction awards for as long as these were due within the protection period. (Any payments made on a temporary basis, e.g. acting up allowance, are excluded)

4.4 Earnings

Remuneration received from contracted earnings in respect of the following:

- Unsocial hours;
- On-call availability;
- Contractual overtime;

Protected earnings will be calculated as a monthly average of the earnings received in the 3-month period immediately preceding the day on which an organisational change takes effect / the first day of employment in the new post.

4.5 Mark Time

Protected basic pay will be 'frozen' and not subject to increase during the protection period (e.g. due to incremental progression and/or cost of living uplift).

4.6 Suitable Alternative Employment

The Trust will identify and determine what it regards as suitable alternative employment for employees with reference to the definitions within the Employment Rights Act 1996 and the following factors:

- how similar the work is to an employee's current job;
- the terms and conditions of the job being offered;
- an employee's skills, abilities and circumstances in relation to the job;
- the pay (including benefits), status, hours and location.

4.7 Downgrading

When the salary scale of the new post, irrespective of its pay band, has a maximum pay point lower than that of the employee's previously held post.

4.8 Reckonable Service

Continuous NHS service as defined in national terms and conditions.

4.9 Transfer of Undertakings (TUPE)

The transfer of a service or role to another employer (e.g. outsourcing), during which affected staff have their terms and conditions protected under the Transfer of Undertaking (Protection of Employment) Regulations 2008.

4.10 Consultation

The process by which staff affected by change, including any relevant trade union representatives, are informed about any impending changes / redundancy and given the opportunity to make suggestions, shape any changes and ask questions.

4.11 Fixed Term Contract

A contract for a particular/stated and fixed period of time.

5. RIGHT TO BE ACCOMPANIED

- 5.1 Employees have the right to be accompanied at any meeting with management where they are being formally consulted about organisational change(s), which may affect their contracts of employment. They may either be accompanied by an accredited staff representative(s), or the full-time officer(s), of a recognised staff organisation, or by a work colleague. Where reference is made in this document to an "accredited staff representative" this should also be taken to mean full-time officer where appropriate.

6. CONSULTATION PROCEDURE

6.1 When to start formal consultation

- 6.1.1 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.

- 6.1.2 Consultation will, as minimum, meet the requirements laid down by current or future statutes and regulations. The process of communication, both to the affected staff and wider staff groups, will continue throughout the period of change.
- 6.1.3 Consultation will take place between Service Heads and relevant accredited staff representatives on the implications for employees that may arise from organisational change (see Section 4.1), restructures, and the introduction of new working practices, new technology, or other changes to business processes.
- 6.1.4 The process outlined below should be used as guidance. However, effective consultation can follow various formats and Heads of Service should discuss and agree with their Divisional HR Manager the most appropriate process depending on the nature and extent of the change.
- 6.1.5 Managers should produce a consultation document, outlining the proposed change(s) for staff and the process to be followed. Such a document should include the following (though further guidance should be sought from Human Resources):-
- Details of the changes and the benefits associated with the proposal(s);
 - Which posts are likely to be affected, how and the total number of staff involved;
 - A description and number of employees who may be at risk of redundancy (if appropriate);
 - A financial costing of changes (if appropriate);
 - The consultation process, how and to whom employees can provide feedback and will be kept informed;
 - Ways to avoid or reduce redundancy (if appropriate);
 - The likely timescale including how and when dismissals will take effect (if appropriate);
 - How the changes/restructure will be managed including selection and redeployment processes (if appropriate);
 - Who will be responsible for the various change elements.
- 6.1.6 Discussions with staff about any proposed organisational change should start as soon as practicable and at a point where the extent and purpose of that change is clear, so that meaningful consultation can take place. Accredited staff representatives will be entitled to relevant information, examples of which are provided in Section 6.1.5, as soon as possible.
- 6.1.7 With many organisational change projects, there will be some aspects that are a “given” and cannot be influenced by staff (e.g. if funding for a service has been withdrawn and it is to cease). Equally, there will be others that staff are able/will be invited to influence. Managers should clarify which elements of

the organisational change are those that are “givens”, so that staff know which aspects they are able to influence.

- 6.1.8 Proposed changes should be shared with staff representatives prior to the start of consultation with employees where appropriate. The manager should then arrange for a group meeting with all affected staff, to inform them of the proposed changes.
- 6.1.9 Staff should also be offered the opportunity to have a one-to-one meeting with their manager to allow them to give their views, discuss any concerns about the proposed changes along with their ability to adapt to those changes and identify any preferences in relation to future employment. HR can be present at this meeting and the employee can choose to be accompanied by a work place colleague or a Trade Union representative.

6.2 Timescales

- 6.2.1 Where organisational change may lead to staff being made redundant then the Trust has a legal obligation to consult. The legal duty to inform and consult appropriate representatives depends on the number of employees it is anticipated may be made redundant. If 20 to 99 redundancies are anticipated, the consultation must start at least 30 days before any dismissals take effect. If 100 or more redundancies are anticipated, the consultation must start at least 45 days before any dismissals take effect.
- 6.2.2 The normal formal consultation period within the Trust will be 30 days (provided that less than 100 redundancies are anticipated). However where there are less than 20 redundancies and/or if no redundancies are anticipated, the Head of Service, with advice from Human Resources, may agree a shorter consultation period, provided that this is agreed with staff representatives (normally this will be the Chair of the Joint Consultative Group).
- 6.2.3 Where appropriate, it may be agreed between staff representatives and managers that both consultation and selection processes can take place during the formal consultation period.

6.3 Confidentiality

- 6.3.1 It is anticipated that there may have been some discussion with staff and staff representatives about the principles and likelihood of a possible organisational change, prior to any formal consultation being launched.
- 6.3.2 However when the specifics of a proposed change and the consultation arrangements are being finalised, it is important that managers and any staff representatives who have been given confidential information in advance, maintain the complete confidentiality of the proposals until the formal launch. This is to ensure that all affected staff hear of these for the first time at the consultation launch meeting, rather than through rumour and can be given the accurate/relevant information and proper support immediately.

6.3.3 Consultation will start with staff directly affected by a proposed change, after which consultation may be extended to other staff who may be indirectly affected and/or service users/patients/customers.

6.4 Providing Information

6.4.1 The purpose of consultation is to consider the viability of proposals, whether they will result in the intended changes and to give staff/their representatives the chance to consider/evaluate the proposals and suggest any alternatives.

6.4.2 There should be several methods used to share information with affected staff/their representatives, including but not limited to the following:-

- Distribution in advance, of the consultation paper to the relevant staff representatives so that they can answer employee questions. This will be subject to the requirement for staff representatives to keep the information confidential until the consultation has been formally launched.
- The manager, normally with HR support will meet with affected staff to formally launch the consultation period. Staff are entitled to be represented at the meeting by an accredited trade union or professional association representative or a fellow Trust employee.
- All staff affected by the proposed change will be given a copy of the consultation paper or details of how to access one. All affected staff have the right to be consulted, regardless of their length of service and whether they are members of a trade union.
- Briefings and/or individual meetings will normally be arranged for affected staff during the consultation period. Contact details for the manager and HR representative leading the change process, will be given to staff so that they can ask questions and give feedback.
- At the end of the consultation period, the manager, with support from HR, will consider the feedback from affected staff/their representatives (including any suggested changes to the proposals) and communicate the final changes.

6.4.3 After a period of meaningful consultation, it may become clear that the proposed change needs to go ahead and that no alternative can be identified that meets service needs. In this situation, if staff refuse to comply with the change and no other reasonable alternative is possible, the Trust will issue notice of dismissal to staff (under the legal category of “some other substantial reason”) and offer re-engagement on new terms.

7. REDUNDANCY AND REDEPLOYMENT PROCEDURE

7.1 Avoiding Compulsory Redundancies

7.1.1 The following measures will be considered / used by the Trust in an effort to avoid or minimise redundancies. While it is recognised that not every measure will be appropriate to every situation, it is expected that all of the

options set out below will be actively explored before any employee is dismissed on the grounds of redundancy:-

- Fully exploring reductions in non-pay expenditure;
- Freezing recruitment in the staff group(s) affected, or other areas identified by HR as being similar in nature or suitable for redeployment;
- Reducing/eliminating overtime and/or the use of agency, bank and locum staff and contractors;
- Reviewing/revising working patterns and associated costs e.g. unsocial hours working/on-call;
- Considering the employment of staff on fixed term contracts, which would cease when the need for the reduction in staff occurs;
- Considering the implementation of annualised hours’;
- Canvassing for voluntary severance/redundancy/retirement;
- Reviewing available vacancies;
- Encourage/facilitate the development of new skills for staff, to increase opportunities for re-deployment;
- Offering flexible or early retirement options where they exist;
- Offering career breaks in line with Trust Policy;
- Supporting voluntary transfer to an alternative employer;
- Other options identified by staff or the Trust.

7.1.2 Where it is clear that a post will only be required for a time limited period basis, then it should be recruited to on a fixed term contract (FTC) basis. Staff on FTCs affected by organisational change before the end of their contract, should be dealt with as other staff but taking account of the terms of their FTC.

7.2 Voluntary Redundancy / Voluntary Early Retirement

7.2.1 It is acknowledged that organisational change can be unsettling and difficult for staff, particularly when there is a possibility of posts becoming redundant. The Trust may therefore ask for volunteers for redundancy or early retirement as a way of achieving workforce reductions.

7.2.2 Where this course of action is agreed, letters inviting staff to apply for voluntary redundancy or early retirement will be issued to all those within the at risk staff group or from staff in the same staff group/specialty/department, where this would reduce the risk/incidence of compulsory redundancies.

7.2.3 Any requests that are received will be evaluated by management according to various criteria, which may include (but not be limited to):-

- Costs of the redundancy / retirement relative to the savings that may be achieved.
- Value of the individual to the Trust, in terms of their particular skills, knowledge, experience and ability and that of the rest of the team.

The aim of this will be to ensure that the remaining staff possess the right blend of skills and experience to continue to deliver the service. Therefore, requests for early release will not necessarily be approved.

7.3 Identifying Staff at Risk of Redundancy

- 7.3.1 The first step in identifying staff at risk of redundancy will be to question whether the proposals fulfil the definition of redundancy. The second step will be to determine, in consultation with the staff representatives, the pool of staff who are considered to be 'at risk' and from which the selection for redundancy will be made.
- 7.3.2 Where staff undertake a particular type of work and the requirement for that work has ceased or will cease, only those staff will be at risk of redundancy as it is only their jobs that will no longer exist. Consequently, no other staff are affected.
- 7.3.3 Where the requirement for a particular type of work diminishes or where other change is introduced, it may be necessary to consider all staff in a particular group at risk of redundancy, before applying selection criteria. Staff will normally be identified where they are 'at risk' of redundancy at the start of the formal consultation period.
- 7.3.4 Management and staff representatives will agree appropriate, objective, fair and non-discriminatory selection criteria for each separate change proposal and for each staff group in line with this policy. In addition to this, they must be applied consistently, to ensure that the selection of staff for redundancy is fair.
- 7.3.5 Employees will have the right to request feedback and documentation relating to their own selection and may be entitled to anonymised feedback relating to other employees within the selection process.
- 7.3.5 Possible fair selection criteria include:
- A competitive interview situation or a competitive test (e.g. a trades test for workshop staff). The criteria and scoring system must be objective / reasonable and should be shared with staff and staff representatives in advance.
 - Attendance records (current cautions) though these must be handled carefully and with reference to the Equality Act where disability discrimination could apply;
 - Disciplinary records (current warnings);
 - Skills, competencies and qualifications;
 - Work experience;
 - Performance record (current improvement warnings);
 - Affordability;
 - Impact on services.

- 7.3.6 Consideration of performance in selecting for redundancy will focus on the quality of work performance. In determining such quality, performance records will be used where available. The process of determining work performance will be undertaken by a panel consisting of a Divisional General Manager / Executive Director, an HR Manager and a staff representative.
- 7.3.7 Consideration of attendance will take into account an analysis of absence. Maternity, adoption and other authorised leave will not be taken into account. Absences relating directly to an employee's disability will be discounted. Attendance records will not be used to discriminate against part-time employees.
- 7.3.8 Employees with a disability will be supported throughout this process within the spirit of the Equality Act 2010.
- 7.3.9 A scoring system will be used to facilitate fairness, consistency and objectivity in the selection process. The scoring system will apply to all the selection criteria and individual weightings will be allocated by panel members, linked to previously identified service needs. The panel will be responsible for the selection for redundancy decisions, with advice from the Director or Deputy Director of HR as appropriate.
- 7.3.10 All records of panel meetings will be maintained centrally by the HR Department.

7.4 Selection Processes

- 7.4.1 All Trust vacancies will first of all, as part of a proposed restructuring, be made available on a priority basis to 'at-risk' staff currently employed in the affected areas. Where there are staff in other departments/wards with priority status, either for health or organisational change/redundancy reasons, they may also apply for these posts.
- 7.4.2 Posts will be filled in the following order depending on the circumstances:-
- Automatic slotting in;
 - Competitive slotting in;
 - Preferential consideration;
 - Normal/open competition;

Detailed guidance on all of these processes is set out in the Trust's Redeployment Guide, a copy of which is published on the Trust Intranet or available from the HR Department.

7.5 Redeployment

- 7.5.1 At the end of the formal consultation period, each employee who has been identified as 'at risk' of redundancy and has not secured suitable alternative employment via one of the processes outlined in Section 7.4.2, will be notified that they are still 'at risk' of redundancy and will commence a formal redeployment period. (Note: 'at risk' employees who are pregnant have the

additional right to choose the timing of their formal redeployment period. Managers should consult their Divisional HR Manager on this issue if it arises – see also Section 11.3.)

7.5.2 Detailed guidance on the operation of the redeployment process is set out in the Trust's Redeployment Guide, a copy of which is published on the Trust Intranet or available from the HR Department.

7.6 Notice of Redundancy / Extension of Redeployment

7.6.1 Where all of the measures outlined above have been exhausted and suitable alternative employment cannot be found within the formal redeployment period, the Trust will unfortunately have no alternative but to give notice to the 'at risk' employee of the termination of their contract of employment for the reason of redundancy. However, in certain circumstances where it is highly likely that suitable alternative employment will become available for which the employee meets the essential requirements of the person specification, then the formal redeployment period may be extended by up to a further 4 weeks.

7.7 Notice of Compulsory Redundancy

7.7.1 The Trust will only consider compulsory redundancy as a last resort and where all of the measures outlined in this policy have been exhausted / failed to identify a suitable alternative employment (redeployment) post.

7.7.2 An employee may only be made compulsorily redundant in the following circumstances:

- their current post has been made redundant following consultation;
- they have not been eligible for automatic slotting in to a post in a proposed new structure and/or they have been unsuccessful in obtaining a redeployment post through their formal redeployment period;
- they do not wish to consider voluntary redundancy/early retirement.

7.7.3 In such circumstances, at the end of their formal redeployment period, the employee will be invited to attend a meeting and be given formal notice by the appropriate senior manager and HR representative. This and the employee's right to be accompanied will be confirmed in writing.

7.7.4 The letter confirming their notice of termination of employment due to compulsory redundancy should state the employee's last day of service taking into account their contractual (or statutory) notice period. The letter should also confirm their right to appeal and a copy sent to their trade union or other representative, if appropriate.

7.7.5 Employees are entitled to a minimum contractual notice or the statutory minimum period of notice, whichever is longer. The statutory minimum period of notice is calculated as follows:-

- one week's notice if the employee has been employed by the Trust continuously for one month or more, but for less than two years;
- two weeks' notice if the employee has been employed by the Trust continuously for two years and one additional week's notice for each further complete year of continuous employment, up to a maximum of 12 weeks. (*E.g. if an employee has worked for 5 years then they are entitled to 5 weeks' notice.*)

7.7.6 Employees who are under notice of termination due to redundancy will be:

- Given reasonable paid time off work to look for new employment and/or make arrangements for training to help them to find new employment (see Section 8);
- Given advice and guidance on job searching and applying for jobs;
- Offered access to counselling and other support (financial and legal) through the Trust's Employee Assistance Programme;
- Considered for early release from employment if they are successful in finding a new job with another employer;
- Informed of any redeployment opportunities that arise within the Trust during the notice period.

7.7.7 The rules and regulations of the NHS Redundancy Payments Scheme (Section 16 of the Agenda for Change: NHS Terms & Conditions of Service Handbook) will apply in full to any member of staff made redundant. A redundant employee who secures a post elsewhere within the NHS must break their service and be unemployed for at least a period of 4 weeks to retain the redundancy payment. If not, employment is deemed to be continuous and therefore no redundancy exists.

7.7.8 During the notice period the Trust will continue, up to the employee's last day of service, to seek re-deployment / suitable alternative employment in line with the Redeployment Guide. If redeployment has not been secured by the employee's last day of service, then the appropriate manager will communicate with them to confirm that it is necessary to action their compulsory redundancy.

8. SUPPORT AND TRAINING

8.1 Employees affected by change or who are 'at risk' are entitled to access the following Trust support and/or training:-

- Occupational Health – e.g. staff physiotherapy service;
- Employee Assistance Programme (EAP), e.g. free counselling service;
- Personal meetings with a nominated representative from HR to discuss individual concerns and help in finding alternative employment / support with the redeployment process – e.g. interview skills training;
- Reasonable paid time off to consult with a trade union representative.

- 8.2 Employees under notice of termination due to redundancy and who have at least two years' service are entitled to reasonable paid time off work to look for other employment and / or arrange retraining, (e.g. to attend appointments / interviews with Job Centre Plus, employment agencies or colleges / universities). There are no rules about exactly how much time, but it must be reasonable. What is reasonable will depend on the circumstances, e.g. it might depend on the difficulty of finding work in certain areas, the time and travel involved and the range of jobs employees are looking at.
- 8.3 All employees will be encouraged to take up appropriate and available retraining / re-skilling to support their successful re-deployment into a suitable alternative post. Any training identified, needs to be agreed and form part of a development plan.

9 PAY PROTECTION ARRANGEMENTS

- 9.1 Pay protection arrangements will be considered in relation to any permanent employee who, as a result of organisational change, is required to move to a lower banded post (downgrading) or who suffers a permanent reduction in working hours (which results in a reduction in earnings) worked within the standard working week.
- 9.2 If protection applies, the employee will be entitled to have the salary level of their former post protected from the date of their new appointment. The protected salary will be on a 'mark time' basis, i.e. there will be no payment of increments or uplift for cost of living increases.
- 9.3 Staff on pay bands 8C and above who have been awarded an annually earned increase to one of the last two pay points in a band, will not be entitled to pay protection on those annually earned points.
- 9.4 Pay protection will be calculated as a monthly average of the earnings received in the 3-month period immediately preceding the day on which an organisational change takes effect, and will be paid on a mark-time basis in accordance with the following tables.

Continuous Trust service (completed years)	Protected Period (months)
1 - 2 years	3 months
3 – 5 years	6 months
6 -9 years	9 months
10 years +	12 months

Protection of basic pay where downgrading is involved

Continuous Trust service (completed years)	Protected Period (months)
1 - 2 years	4 months
3 - 5 years	12 months
6 - 9 years	18 months
10 years +	24 months

At the end of protection, the terms applicable in the new post will apply.

9.6 Protection of basic pay and the applicable terms will continue until:

- the end of the protection period or;
- the employee is appointed to a post in which the normal basic salary is equal to or greater than the employee's salary plus protection in the post to which they were transferred or;
- the employee voluntarily moves to a post on the same or a lower grade as their current post or;
- the employee leaves the employment of the Trust or;
- the employee refuses to accept or apply for suitable alternative employment within the Trust without an acceptable reason.

9.7 Conditions of Protection

9.7.1 Employees required to move to a new post, will acquire the terms and conditions of the new post, other than pay protection as outlined above.

9.7.2 Basic salary and earnings protection are conditional on an employee undertaking any overtime, shift work or other additional duties that may be required to meet the exigencies of the service.

9.7.3 Basic salary and earnings protection will be offset against basic salary and earnings in the new post, including earnings from overtime, shift work or other additional duties that may have been worked. In any month during the period of protection where basic salary and earnings in the new post exceed protection, protection will not be paid.

9.7.4 Where an employee is redeployed to a new post, the notice period applicable to that post will apply regardless of the notice period in the former post.

9.8 Pension

9.8.1 Employees who suffer a reduction in basic pay as a result of organisational change and who are members of the NHS Pension Scheme may be able to preserve their benefits earned on the higher level of pay. It will be the responsibility of the relevant HR Manager to ensure that this is brought to the attention of the employees concerned at an early stage of the organisational change process. .

10 APPEAL

10.1 An employee who has been informed of the decision to be made redundant may appeal on the basis of the application of the selection criteria. Only one appeal is permitted related to selection for redundancy. The appeal must be made in writing to the Director of Human Resources and should be lodged within 14 calendar days of the formal notification of redundancy being given.

- 10.2 The employee will be invited to attend an appeal meeting with an Appeals Panel of the Trust Board. The employee will have the right to be accompanied. The panel will consist of two members of the Board of Directors, at least one of whom will be a Non-Executive Director and will be supported by a representative from the Human Resources Department. None of the above should have had any prior involvement in the redundancy. The appeal meeting must be held without unreasonable delay.
- 10.3 The appeal meeting will determine whether or not to confirm the decision to make the employee redundant.
- 10.4 The outcome of the appeal will be sent to the employee and their representative in writing within 5 working days of the appeal meeting. The decision of the appeal panel will be final.

11 OTHER SITUATIONS

11.1 Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)

- 11.1.1 Where it is proposed to transfer all or part of an 'undertaking' (service) within the Trust 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.
- 11.1.2 Continuous service with the Trust would count as continuous service with the new employer.
- 11.1.3 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.
- 11.1.4 Where an employee objects to such a transfer, they will be deemed to have resigned.
- 11.1.5 Manager must discuss any proposed transfers of an undertaking with the Director of HR at the earliest opportunity to ensure the appropriate procedure is followed.

11.2 Employees on Secondment

- 11.2.1 Where an employee is on secondment and their substantive post is affected by organisational change, the employee will be included in the change management process as outlined above. If an employee is seconded to a department identified to go through change but their substantive post is in

another department, they will not be included in the change management process.

11.2.2 An employee who is 'at risk', may choose to apply for a secondment role. However, they will stay 'at risk', the notice will continue and at the end of the secondment, if a suitable alternative post has not been found, the individual will be made redundant.

11.3 Employees on Maternity Leave

11.3.1 It is important that during an organisational change/restructure process, managers do not forget employees on maternity leave. These individuals remain Trust employees and must be fully involved.

11.3.2 Pregnant employees have additional employment rights over other staff going through organisation change. Such employees should be sent all relevant documentation and be fully included in the consultation process so that they are not treated any less favourably than other employees, regardless of their absence from work on maternity grounds.

11.4 Employees on long-term sickness absence

11.4.1 It is important that employees absent on long-term sickness are not forgotten during an organisational change/restructure process. However, depending on the nature of the sickness absence, sensitivity / flexibility should be applied in handling these situations. That said, employees should be sent all the relevant documentation and be invited to fully participate in the consultation process.

11.4.2 If an employee is too ill to participate in the process, the manager should seek advice from HR at the earliest opportunity. In addition, the Occupational Health Department may be able to advise on the extent to which an employee is fit to be fully included in a consultation process and how this might best be achieved.

12 MONITORING COMPLIANCE

Area for monitoring	Method	Frequency	Responsibility	Monitoring Assurance Group	Lead for developing action plan	Group responsible for monitoring action plan
Compliance with the policy	Formal evaluation of organisational change process	At the end of each organisational change process	Divisional General Manager / Executive Committee Lead	HR Strategy Group	Sponsor	Executive Committee

13 DISSEMINATION, IMPLEMENTATION & TRAINING

- 13.1 Training on this policy will be delivered in accordance with the schedule laid down in the Training Needs Policy and monitored via the Electronic Staff Record system.

14 CONSULTATION/REVIEW, APPROVAL AND RATIFICATION

14.1 Consultation/Review

- Human Resources Strategy Group
- Joint Consultative Group, who will ensure that a fair and proper equality screening and impact assessment has been carried out.

14.2 Approval

- Executive Committee

14.3 Ratification

- Policy Committee

15. REFERENCES

- Equality Act 2010
- Transfer of Undertakings (Protection of Employment) Regulations 2006
- Equal Pay Act 1970
- Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- Human Rights Act 1998
- Part time workers (Prevention of Less Favourable Treatment) Regulations 2000
- NHS Terms and Conditions Handbook, Section 16, "Redundancy Pay".
- NHS Pension Scheme
- NHS Staff Constitution

16. ASSOCIATED TRUST POLICIES / DOCUMENTS

- Recruitment and Selection Policy
- Employment References Policy
- Grievance Policy and Procedure
- Attendance Management Policy
- Parental Policy
- Special Leave Policy
- Equality and Diversity Strategy
- Redeployment Guide