

# **ORGANISATIONAL CHANGE POLICY (H29)**

If you require a copy of this policy in an alternative format (for example large print, easy read) or would like any assistance in relation to the content of this policy, please contact the Equality and Diversity team on 01803 656680.

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### Amendment History

Issue	Date	Reason for Change	Authorised
1.1	Oct 2017	Clarification of pension protection arrangements based on NHS Business Authority Guidance. Page 44 paras 4.4.-4.6. Page 48 rewording of Protection of Entitlement under NHS Pension Scheme	Payroll Manager/HR Manager
1.2	February 2019	General review and audit	HR Advisor
1.3	October 2020	General review and addition of Public Sector Exit Payment Cap	People Hub
1.4	June 2021	General review and removal of Public Sector Exit Payment Cap	People Hub

## Rapid Equality Impact Assessment

<b>Policy Title</b> (and number)		<b>Organisational Change policy</b>	<b>Version and Date</b>	Oct 17 Version 1.1	
<b>Policy Author</b>		HR Manager			
An (e)quality impact assessment is a process designed to ensure that policies do not discriminate or disadvantage people whilst advancing equality. Consider the nature and extent of the impact, not the number of people affected.					
<b>Who may be affected by this document?</b>					
Patients/ Service Users <input type="checkbox"/>		Staff <input checked="" type="checkbox"/>	Other, please state... <input type="checkbox"/>		
<b>Could the policy treat people from protected groups less favorably than the general population?</b> <i>PLEASE NOTE: Any 'Yes' answers may trigger a full EIA and must be referred to the equality leads below</i>					
Age	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Gender Reassignment	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Sexual Orientation	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Race	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Disability	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Religion/Belief (non)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Gender	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Pregnancy/Maternity	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Marriage/ Civil Partnership	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Is it likely that the policy could affect particular 'Inclusion Health' groups less favorably than the general population?</b> (substance misuse; teenage mums; carers <sup>1</sup> ; travellers <sup>2</sup> ; homeless <sup>3</sup> ; convictions; social isolation <sup>4</sup> ; refugees)					Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Please provide details for each protected group where you have indicated 'Yes'.</b>					
<b>VISION AND VALUES:</b> Policies must aim to remove unintentional barriers and promote inclusion					
Is inclusive language <sup>5</sup> used throughout?				Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/>	
Are the services outlined in the policy fully accessible <sup>6</sup> ?				Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/>	
Does the policy encourage individualised and person-centered care?				Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/>	
Could there be an adverse impact on an individual's independence or autonomy <sup>7</sup> ?				Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/>	
<b>EXTERNAL FACTORS</b>					
<b>Is the policy a result of national legislation which cannot be modified in any way?</b>					Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>What is the reason for writing this policy?</b> (Is it a result in a change of legislation/ national research?)					
Provides details of Trust's organisational change process including redeployment and redundancy.					
<b>Who was consulted when drafting this policy?</b>					
Patients/ Service Users <input type="checkbox"/>		Trade Unions <input checked="" type="checkbox"/>	Protected Groups (including Trust Equality Groups) <input type="checkbox"/>		
Staff <input type="checkbox"/>		General Public <input type="checkbox"/>	Other, please state... <input type="checkbox"/>		
<b>What were the recommendations/suggestions?</b>					
<b>Does this document require a service redesign or substantial amendments to an existing process?</b> <i>PLEASE NOTE: 'Yes' may trigger a full EIA, please refer to the equality leads below</i>					Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>ACTION PLAN:</b> Please list all actions identified to address any impacts					
<b>Action</b>			<b>Person responsible</b>	<b>Completion date</b>	
<b>AUTHORISATION:</b>					
By signing below, I confirm that the named person responsible above is aware of the actions assigned to them					



<b>Name of person completing the form</b>	HR Manager		
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## SECTION 1 – MANAGING ORGANISATIONAL CHANGE

### 1 Policy Statement

- 1.1 The NHS continues to change and develop and there will continue to be a programme of re-organisation of services so that the Trust can meet its responsibilities to its service users in delivering care within defined levels of quality and cost.

### 2 Introduction

- 2.1 These changes require staff to adapt to change and be willing and able to remain flexible to the changing requirements of the service. The Trust is committed to supporting and developing staff through such changes, it recognises the value of its staff and the importance they place on secure employment. The Trust will seek to provide continuing employment opportunities for as many staff as possible throughout organisational change.

### 3 Scope

- 3.1 This policy applies to all staff employed by Torbay & South Devon NHS Foundation Trust, together with those on a joint contract with the organisation and another employer.

### 4 Equality and Diversity Statement

- 4.1 The Trust is committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): sexual orientation; gender; age; gender re-assignment; pregnancy and maternity; disability; religion or belief; race; marriage and civil partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.
- 4.2 The Trust is committed to ensuring all services, policies, projects and strategies undergo equality analysis.

### 5 Roles and Responsibilities

#### 5.1 Manager

The manager, in the context of organisational change, may be a senior manager responsible for a service, rather than a unit manager, who may themselves be directly affected by a change process. The role of the senior manager responsible for the change taking effect is to follow the procedure outlined below and to seek expert advice at the earliest opportunity. The manager is required to consult with staff affected and take their views and concerns into consideration before final decisions are made.

#### 5.2 People Hub Team

All proposals for organisational change must be brought to the People Hub team in the first instance in order to ensure consistency of approach and adherence to Trust policy. The People Hub team is available for advice on good practice in line with current

employment legislation, and will advise on the appropriate procedure to be followed and appropriate timescales. People Hub Advisors may support managers during open meetings and for individual interviews.

### 5.3 Staff Side

Staff Side works in partnership with the Trust and should be kept informed alongside the People Hub team of proposals for organisational change. The involvement of staff side at an early stage provides an opportunity to influence and shape proposals which may impact on staff and if necessary make any necessary representation to management. Their role is also to keep staff representatives informed of the process to be followed so that they may provide individual support to staff. Changes which involve only small numbers of staff should be discussed with the local staff representative as appropriate.

## 6. Definitions

For the purpose of this policy the following expressions have the definition as detailed below:

6.1 **Employee at risk** is an employee whose post, location or conditions of employment will be directly affected by changes in service or reorganisation or an individual who is determined through medical opinion as being incapable of fulfilling their substantive post on medical grounds.

6.2 **Redundancy** has the meaning given to it by the Employment Rights Act 1996. Redundancy is the situation an employee faces when –

- The employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed, or has ceased, or intends to cease to carry on that business in the place where the employee was so employed, or,
- The requirements of that business for employees to carry out work of a particular kind, or 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.

6.3 **Suitable Alternative Employment** refers to both the place and to the capacity in which the employee would be employed. The following considerations shall be applied in deciding whether a post is suitable alternative employment and whether it was unreasonably refused.

- **Place:** A post is normally suitable in place if it involves no additional travelling expenses or is within 6 miles of the employee's home. If the new post is a greater distance away, the fact that assistance will be given with travelling expenses will normally outweigh any added difficulties in travelling. Exceptionally an employee's special personal circumstances will be considered in comparison with the travel undertaken by other employees in comparable bands.
- **Capacity:** Where possible, alternative employment will be offered at the same Band. However, this will not always be possible and in such circumstances the employment



should be judged in the light of the employees' qualifications and ability to perform the duties. Suitable alternative employment will be identified by means of the individuals' own skills, knowledge, the circumstances and abilities of the individual and the essential criteria of the post as outlined in the job specification, consideration will also be given to any training requirements. Where the post an individual is redeployed into is at a lower salary then their existing salary pay protection arrangements will apply (Refer to Section 3 Protection of Pay & Conditions of Service)

- 6.4 **Service at Risk:** is a department or group of departments included in the same organisational change, whose staff share a common risk to their employment.
- 6.5 **Occupational Group:** is a group of employees whose jobs, skills and conditions of employment are common or closely similar.
- 6.6 **Continuous Employment** is the period of employment calculated according to Employment Act 1996 and under the Agenda for Change terms and conditions of service.
- 6.7 **Ring Fencing:** the holding of vacant posts for a group of staff who are at risk and allowing them first access before open advertising.

## 7. Informal Consultation Procedure (Service Redesign)

- 7.1 As part of the service redesign strategy the Trust may review how it utilises resources, including the use of overtime and temporary staff, rostering practices and vacancies. The aim of this work is to help the Trust achieve the required efficiency savings in year and to enable the flexible deployment of staff to cover critical posts and 'must do' tasks.

Given the need to achieve efficiency savings within a limited timescale there may be occasions when actions need to be taken swiftly and where it is appropriate to utilise an informal consultation process. The features of an informal consultation process and when it may be appropriate to utilise such a procedure are outlined below.

### 7.2 Features of the Informal Consultation Process

#### 7.2.1 Communication with Human Resources and Staffside

Whilst it would not be necessary to enter into a period of formal consultation, there is an expectation that management communicate the proposed change to Human Resources and a recognised Trade Union Representative, at the earliest opportunity.

#### 7.2.2 Communication with Staff

Although informal, it is important that staff are fully informed of any proposed changes and that they have the opportunity to ask questions or raise concerns. Therefore, the following management actions are required:

- Management have fully discussed the proposed change with staff member(s)
- There has been the opportunity for staff to ask questions/raise concerns
- There is an agreeable timescale for implementation of the change

Informal consultation does not preclude the member of staff discussing the proposed change with their recognised Trade Union representative, should they wish.

### 7.3 **Circumstances where it may be appropriate to utilise informal consultation**

The outcomes generated by service redesign may affect staff on an individual or team basis. This section aims to provide examples and to define parameters of both individual and group changes which may be suitable for informal consultation. This is not intended to constitute an exhaustive list and judgement should be exercised.

#### 7.3.1 Changes affecting an Individual

It may be appropriate to utilise an informal consultation process where a member of staff is changing work location or job role, providing the following parameters are adhered to;

- Same Pay Band
- Job content is broadly similar

#### 7.3.2 Changes affecting a Group of staff

An informal consultation process maybe appropriate where there are relatively small changes to a group's shift pattern of job content, providing the following parameters exist;

- The majority of staff are supportive of the proposed change
- Possibly, include a trial period

## 8 **Procedure to be followed during times of organisational change**

### 8.1 Written documentation

As soon as a manager is made aware of service changes or when necessary changes become apparent following a review, a consultation document needs to be prepared to include the following information:

- Introduction
- Current position
- Driver for change (may be internal or external factors)
- Proposed changes to structure, roles, hours, etc. with rationale
- Indication of how these changes might impact the staff
- Suggested timescales for consultation and implementation, subject to amendments.

The proposal document may include more than one proposal which would later be modified following initial consultation. See Appendix 1.

### 8.2 Consultation

The Human Resources Manager and Staff Side Officer will be consulted when proposals are known and before firm plans are available, in order to prepare for queries which may arise from staff at an early stage.

Consideration should be made as to whether the proposal is potentially newsworthy, perhaps due to potential impact on staff (i.e. redundancies) or service users (i.e. changes to service provision). In cases where proposed change may be considered to be of interest to the media a copy of the proposal document should be made available to the Head of Communications.

An initial consultation meeting will be organised for all staff affected and their representatives, once firm proposals are in place. Staff and their representatives will be informed in writing (letter or e-mail) or verbally by the person organising the meeting. The proposal document will be shared at the initial meeting and copies of the document made available to any staff unable to attend, including those on long term leave such as maternity leave.

The purpose of the initial consultation meeting is to share the information contained within the proposal document, provide a more detailed explanation regarding the drivers for change and the rationale behind the proposals and outline the process of consultation including timescales. Staff will have the opportunity to ask questions at this meeting.

The time given for consultation will vary depending on the number of staff affected and the significance of the change, but would normally be between 30 and 45 days. It is advisable for the manager to seek advice on good practice from a People Hub Advisor.

There are occasions where extenuating factors require a reduced period of consultation, so as to enable the Trust to make the necessary changes within imposed time constraints. In these circumstances it is important that the Trust is well positioned to respond to external factors expeditiously, whilst still satisfying its requirements to engage in genuine consultation with staff.

Where a reduced period of consultation is required, this will be discussed with the Staff Side Officer and the rationale explained, with a view to seeking agreement.

In some circumstances, time pressures to implement a change may require that formal notice of the change is given to staff simultaneous to the consultation process.

### 8.3 Individual interviews

As and when firm plans and timescales for change have been decided all staff affected will be offered an individual interview with their line manager, to enable further explanation of how the change will affect them. Individuals may be accompanied by a staff representative if they require it and a member of the People Hub team may also be present as appropriate.

The aim of this will be to:-

- Discuss the implications that the change will have on the member of staff
- Explain the reasons for the change

- Allow any concerns to be raised and discussed
- Ascertain the member of staff's views and aspirations
- Discuss options that may be available
- Identify any training needs if appropriate (this may involve interview skills)
- Remind staff about access to the counselling service

Each member of staff has the right to seek further interviews with the manager if they feel the need for further advice. At any time during any of these discussions the member of staff may have the assistance of a staff representative.

The manager conducting the individual interviews would normally be the immediate line manager but they may be directly affected by the change, in which case a decision should be made in consultation with the People Hub team and staff side as to who the most appropriate person should be.

It is important to give clear guidance to staff about how they should feedback their comments in relation to any proposed change. This may be achieved during the individual interview process, but staff who are not directly affected may also wish to comment and this should be done through the appropriate channel i.e. through their immediate line manager or by email to the manager concerned with the change process, giving clear timescales within which to respond.

#### 8.4 Concluding Consultation

When the agreed consultation period has concluded, a further open meeting may be offered to explain the approach to be taken, taking into account feedback received during consultation. In all events a letter will be drafted to all staff affected, from the manager concerned with implementing the proposed change. The letter should include:

- Details of the proposed change, taking into account any feedback received during consultation.
- Information about how this change will affect the individual recipient.
- The process to be followed in implementing the change including notice periods.
- A reference to any rights the staff member has under the Trust's protection policy, if applicable
- A recognition of the impact of any change process and an expression of thanks for their involvement in that process.
- The letter may enclose additional relevant information such as a revised job description. Job descriptions should always be accompanied by a structure chart and a person specification.

In accordance with employment legislation, the Trust has an obligation to give notice of any change in terms and conditions, whether it affects one member of staff or a whole department. The length of notice given depends on the circumstances and required dates for completion.

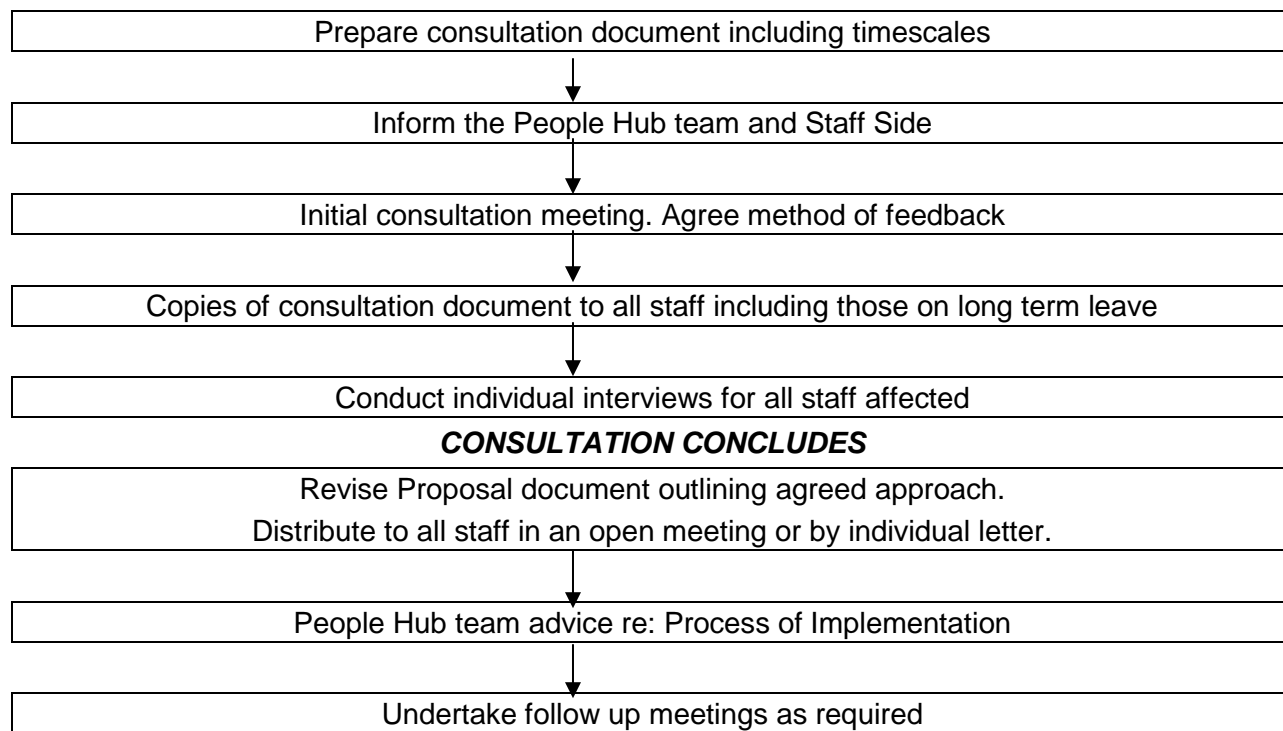
It may be necessary to undertake follow up meetings for individuals directly affected by the change once it is confirmed. The purpose of these meetings is to confirm the process



to be followed and continue to discuss options, adjustments, alternative employment etc, depending on the change taking place. Staff representation is always available for staff at these meetings and managers are encouraged to seek support from their People Hub Advisor.

The following flow chart shows the key steps a manager should take when implementing an organisational change:

### Procedure to follow during organisational change process



## 9 Restructuring (see flow chart)

- 9.1 If an organisational change involves restructuring, those staff in jobs which are directly affected will be provided with written details of the jobs in the new structure and asked to express an interest in accordance with the guidance below:
- 9.2 **Sole candidacy ('slotting in')** - Where there is a new post in the new structure which is substantially similar to an existing post, then the existing post holder will be considered as the natural successor to that post and will become the sole candidate for the position. That individual will usually be offered the position ('slotted in'). Where the individual does not, for some reason, meet the person specification for the new post, then the individual will be advised.

The new post will only become available for application by other staff if the sole candidate is not appointed.

In forming an opinion as to whether or not a post in a new structure is 'substantially similar' to an existing post, the Trust will have regard to:

- the job content of both the existing post and the post in the new structure
- reporting/accountability arrangements
- salary

- geographical location and transport arrangements

9.3 **Limited Competition ('ring-fencing')** - Where there is a post in a new structure which clearly results from the merging of two or more posts, then the post holders of the existing posts will be 'ring-fenced' as initial candidates for the new post. Again such posts will only be available for application by others if no appointment is made from the initial candidates.

Where staff accept an offer of a post either as a result of sole candidacy or job merger, then they will not be eligible to apply for any other posts in the new structures, until such time that posts are advertised in open competition after the limited competition stage.

Where staff are not successful in securing a position within their initial ring fence they will be considered for the next level down of ring fencing where appropriate. Where a member of staff receives a lower grade as a direct result of organisational change, their salary will be protected in accordance with the Trust's protection policy.

Where staff are unsuccessful within the ring-fencing process overall, steps will be taken to seek suitable alternative employment elsewhere in accordance with the Trust's Organisational Change Policy.

If a member of staff turns down an offer of employment within a ring-fencing situation, the individual concerned will be required to explain the reason for this and a decision will be made as to whether or not further support should be given in finding suitable alternative employment (see Appendix 2)

9.4 **Redeployment – suitable alternative employment** - Staff who are still 'at risk' following any process of limited competition will be placed on the Trust redeployment register.

## 10. Redundancy

10.1 It is the general policy of the Trust to maintain and preserve, wherever possible, continuity of employment for all its staff. However some reorganisations and changes in service provision will occur which may result in redeployment of staff or a reduction in the number of staff involved in a particular activity. The avoidance of redundancy (either voluntary or compulsory) may not always be possible, but should be considered as a last resort.

10.2 Where it is envisaged that redundancies may take place as a result of an organisational change, managers should refer to the additional guidance provided in Appendix 2.

## 11. Training and Awareness

11.1 Advice and support will be provided by the People Hub team to support staff and managers in adhering to this policy and their understanding of dealing with organisational change.

11.2 The People Hub team will raise awareness of this policy through the publication of information on ICON and to advise staff of changes to the policy through the staff bulletin and ratification processes.

## 12. References

12.1 ACAS Code of Practice

### **13. Contact Details**

13.1 Any queries regarding this policy should be directed to the People Hub team of the People Directorate.

- People Hub Helpline – 01803 655754 (ext. 55754)

### **14. Monitoring, Audit and Review Procedures**

14.1 This policy will be monitored and audited on a regular basis. A full review will take place every two years by the Directorate of Workforce and Organisational Development unless legislative changes determine otherwise.



## 15. Appendix 1 - Management of staff changes proposal (suggested template)

### 1. Introduction

This paper is a formal consultation document for employees of Torbay and South Devon NHS Foundation Trust (the Trust) and their nominated representatives. Issues in this document directly affect those employees working in the *X team* as part of the *X Directorate/Division*.

### 2. The Requirement for Change

*A statement of case setting out the business reasons for change, could include funding issues, a review of the service or skills needs of a team, etc.*

### 3. Details of Proposals and its Effects on Individuals

*A detailed outline of how the changes affect which posts and any process for applying for posts etc.*

*Include the notice period for each post in case of redundancy.*

### 4. Identification of Staff Affected

*No names just job titles.*

*Use a measurable criteria for "slotting in" appointments such as a comparison of essential requirements in the current and new specifications and a comparison of the current and new KSF outlines.*

*Consistent criteria around the recruitment to posts.*

*Criteria for other staff appointments.*

### 5. Management of Change

The management of proposed change will be carried out in line with the Trust's policy on Organisational Change as attached at Appendix A.

Full consultation will take place with staff as set out in Appendix B. Employees will have the right to be represented at all stages of the process. Discussions with employees, and any representatives nominated by them will commence immediately.

Whenever staff are placed at risk of redundancy the Trust has a duty to look for suitable alternative employment whenever possible within the Trust and the wider NHS health economy.

*Outline other support mechanisms which could include advice on CV writing, career counseling, interview techniques and access to staff support and counseling.*

**6. Consultation Method with affected Staff**

See Appendix 2.

**7. Appendices**

*List appendices which include the management of staff changes policy and consultation and communication method.*

Author  
Date

## 16. Appendix 2 - Guidance for managers when redundancy may be an outcome following organisational change

### 1. Introduction

Employment practices in cases of redundancy are shaped by current employment legislation and by established case law. Employees may be dismissed on grounds of redundancy when any or all of the following circumstances arise:

- When a service, or part of a service, ceases to be required;
- When a restructuring or reorganisation takes place within a part of the service, a department or job, resulting in changes in roles, skill mix, grade, status, location or level or responsibility or accountability carried by individuals within that part of the service, department or job;
- When the service delivery requirements change to the extent that it may affect grades, status, location or level of responsibility or accountability carried by individuals within that part of the service.

The procedure outlined in Section 7 of this policy should still be followed in cases where redundancies are a possible outcome. This guidance provides additional information for the manager's reference in order to ensure compliance with employment legislation for large scale organisational changes.

### 2. The Legal Framework

An employer proposing to make collective redundancies is required to consult in advance with representatives of the affected employees, and to notify the projected redundancies to the **Redundancy Payment Service (RPS)**. A collective redundancy situation arises where twenty or more employees are to be made redundant at one establishment within a period of ninety days or less. Consultation must be completed, before any notices of dismissal are issued to employees.

The obligations may apply even when an employer intends to offer alternative employment on different terms and conditions to some or all of the employees, with the result that the number actually dismissed is less than twenty; this will be the case if employees are to be redeployed on such radically different terms and conditions that accepting the new posts amounts to dismissal and re-engagement.

Where the proposed change may result in compulsory redundancies, consultation should commence as follows:

- At least 30 days before the first redeployment/redundancy takes effect if between 20 and 99 staff, could potentially be redundant;
- At least 45 days if over 100 employees could potentially be redundant.

Where the number of staff who could be potentially redundant is less than 20, there is no statutory requirement to notify the RPS. However, it is the Trust practice to adhere to the formal consultation process. The consultation period will normally be 30 days.

### 3. **Accountability**

The relevant Director/Divisional General Manager will hold the prime responsibility for ensuring that this procedure is followed. They must ensure communication takes place with all staff who may be affected and with their local Trade Union representative(s). It is necessary for that senior manager to involve the Workforce and Finance Directors from the outset to ensure employer obligations are observed and the necessary financial planning is made.

It will be the responsibility of the Director/Divisional General Manager to make certain that any manager who may act for them in any part of the process is fully aware of the provisions of this policy and of the issues for consultation so that the manager can respond to staff questions and suggestions.

Where senior managers are being considered for redundancy, the dismissing officer would be an Executive Director or the Chief Executive.

### 4. **Consultation**

In accordance with good practice the following considerations should be made regarding consultation:

- Begin consultation as early as possible, provide employees with sufficient information and ensure staff have time to consider
- Allow for longer than the statutory period of consultation, wherever practicable
- Utilise the knowledge of staff and their representatives to make better decisions
- Consultation should be a fair, transparent and two way process
- Ensure absent employees are consulted

The consultation should include ways of avoiding the dismissals, reducing the number of employees to be dismissed, and mitigating the effects of dismissals. Consultation must be undertaken by the Trust with a view to reaching agreement with appropriate representatives on these issues. This duty applies even when the employees to be made redundant are volunteers. Failure to comply with the consultation requirements could lead to a claim for compensation.

Consultation should begin in good time and be completed before any redundancy notices are issued. In addition, consultation with the appropriate representatives must begin:

- at least 30 days before the first dismissal takes effect if 20 to 99 employees are to be made redundant at one establishment over a period of 90 days or less
- at least 45 days before the first dismissal takes effect if 100 or more employees are to be made redundant at one establishment over a period of 90 days or less.

## 5. Disclosure of information - legal requirements

The Trust has a statutory duty in the case of collective redundancies to disclose in writing to the appropriate representatives the following information concerning proposals for redundancies so that they can play a constructive part in the consultation process:

- the reasons for the proposals
- the numbers and descriptions of employees it is proposed to dismiss as redundant
- the total number of employees of any such description employed at the establishment in question
- the way in which employees will be selected for redundancy
- how the dismissals are to be carried out, taking account of any agreed procedure, including the period over which the dismissals are to take effect
- the method of calculating the amount of redundancy payments to be made to those who are dismissed.

The information may be handed to local employee representatives or may be sent by post to an address notified to the Trust or, in the case of a trade union, to the address of the union's head or main office.

## 6. Further areas for consultation - good practice

In addition to those areas outlined above and in the interests of good employee relations practice, matters on which the Trust may seek to consult and, where appropriate, negotiate will usually cover:

- the effect on earnings where transfer or downgrading is accepted in preference to redundancy
- how the selection of employees for redundancy will be applied - for example, will it be appropriate for selection to operate across the Trust as a whole or on a departmental basis?
- arrangements for travel, removal and related expenses, where work is accepted in a different location
- whether a redundant employee may leave during the notice period, or postpone the date of expiry of notice, without losing any entitlement to a statutory redundancy payment
- any extension of the length of the statutory trial period in a new job.

## 7. Avoiding compulsory redundancy – considering alternatives to redundancy

The Trust will take into account the following factors in order to reduce the likelihood of redundancy:

- natural wastage
- restrictions on recruitment
- retraining and redeployment to other parts of the organisation
- reduction or elimination of bank or agency hours

- seeking applicants for early retirement, or voluntary redundancy – whilst maintaining a balanced workforce.
- termination of the employment of temporary or contract staff
- maximising redeployment and retraining opportunities

## **8. Suitable alternative employment**

Staff who are considered ‘at risk’ of redundancy due to organisational or service change will always be considered for suitable alternative employment. In considering whether a post constitutes suitable alternative employment, regard will be given to pay, status, location, hours of work, personal circumstances and transport arrangements. Individuals will be given the opportunity to discuss the options available and reach agreement concerning any alternative post.

Suitable alternative employment must be brought to the employee’s notice in writing before the date of termination of contract and with reasonable time for the employee to consider it. The employment should be available not later than 4 weeks from that date. Where this is done, but the employee fails to make any necessary application, the employee shall be deemed to have refused suitable alternative employment, and may not be entitled to a redundancy payment.

## **9. Trial periods (Employment Rights Act 1996)**

Where an employee accepts suitable alternative employment, they will be offered a statutory trial period of four weeks which must commence prior to the notice period terminating. If alternative employment is taken on this basis, and during the trial period the circumstances prove unsatisfactory to either party and are agreed to be unsuitable, the employee will not lose any entitlement to appropriate redundancy benefits. If, however, the employee refuses what is considered by the appropriate line manager to be suitable alternative employment following a successful trial period, this will normally result in a withdrawal of any protection terms as well as affecting the employee’s entitlements to redundancy benefits.

If an employee works beyond the end of the four week trial period the employee will have deemed to have accepted the new contract of employment. This should be made clear to employees when an offer is made.

## **10. Redeployment arrangements for staff who are at risk**

Staff working in a service where there is a definite date for change which directly affects their employment within a particular post within six months will be regarded “at risk”.

They will be notified in writing and offered an individual interview with their manager and a People Hub Advisor. The member of staff may elect to have a staff representative present.

At risk staff will be made aware of available job vacancies and given prior consideration and offered a selection interview in advance of any suitable post being advertised for which they meet the essential criteria outlined within the person specification in accordance with the redeployment process outlined in Section 2.

Special considerations will be made as how best to redeploy at risk staff into vacancies elsewhere within the Trust. The People Hub team will liaise with the relevant managers and staff side representatives to agree the most appropriate arrangements.

## 11. Selection for Redundancy

- 11.1 **Voluntary redundancy/early retirement** - If any of the above procedures fail to avert the necessity for redundancy, the Trust may consider achieving the necessary reductions in staffing in the affected services or department through seeking voluntary redundancy or early retirement in the first instance in order to provide opportunities for redeployment where the resulting vacancies would constitute suitable alternative employment for staff at risk of redundancy (i.e. 'bumped redundancy'). However, these applications can only be considered when the costs of making the volunteer redundant are an affordable option.

This process must be fair and objective and the Trust must retain a balanced workforce with sufficient skills and experience required in those posts remaining against the skills, knowledge and experience of the individual employee.

If more than the required number of volunteers comes forward then selection for redundancy will be as outlined in Section 7.

- 11.2 **Compulsory redundancy** will only be considered after all other options have been explored and have proved unsuccessful. In the event of a potential redundancy situation the Manager must first consider which group or section of employees they will be considering for redundancy. Those who may be selected for redundancy can be referred to as the selection pool. Managers may wish to seek advice from the People Hub team as to who should be included in the selection pool. Once the pool of staff is selected the manager should develop appropriate and objective selection criteria. The selection criteria will be drawn up and be the subject of consultation between the staff affected and staff representatives. The manager concerned will be clear about which selection criteria will be applied and with what weighting (if any).

The Trust will take into account a range of factors which may include the following:

- Skills and experience including qualifications
- Capability
- Ability to learn new skills
- Redundancy costs
- Length of service
- Standard of work performance
- Attendance record
- Disciplinary record
- Performance record
- Relationships with colleagues, managers and clients

Staff will not be selected for redundancy because of their sex, marital status, sexual orientation, race, disability, religion, belief or age. Selection for redundancy on the basis of Trade Union, Health and Safety activities, because the employee was pregnant or on maternity leave is also unlawful. Part time and fixed term workers are also protected from being discriminated against during the selection process.

However, the dismissal of employees under fixed-term contracts that are expiring in Accordance with their terms will not trigger an obligation to collectively consult. In such cases

advice should be sought from the People Hub team to assess the situation and the individual's employment rights and status.

Where a member of staff is to be made redundant a further individual meeting must be held with them and, if they wish, their trade union/ staff side representative at which they will be advised of:

- Their dismissal on the grounds of redundancy.
- The period of notice
- The calculation of redundancy payment and/or pension.
- Details of any suitable alternative employment.
- Details of time off to look for new employment or to arrange training.
- The right of appeal.

All of the above will then be confirmed in writing.

## **12. Notice of termination**

Staff selected for redundancy will receive a notice of 'dismissal' from the Trust and will be given the opportunity to appeal their selection for redundancy.

Employees who face compulsory redundancy or whose voluntary redundancy is accepted or who are retired on organisational change grounds are entitled to a period of notice dependent upon their contract of employment. This period will not be less than the statutory minimum period of notice. In cases of organisational change the Trust may agree to give more than the statutory period of notice in these circumstances when it considers that this would assist the introduction of change.

## **13. Time off to look for work or to arrange training**

Staff with 2 years' continuous service, once given notice of dismissal because of redundancy, are entitled to reasonable time off with pay during working hours to look for another job or make arrangements for training for future employment.

## **14. Redundancy pay**

Staff who are made redundant as a result of organisational change will be paid in accordance with Part 3, Section 16 of the Agenda for Change Terms and Conditions handbook and the regulations of the NHS Pension Scheme.

Where a member of staff has been issued with formal notice of redundancy and during the notice period is successful in being offered another post in the Trust which is of a lower grade, limited salary protection under the terms of the Trust policy would apply provided the costs of protection did not exceed the cost of redundancy.

Employees who are members of the NHS Superannuation Pension Scheme who are made redundant or retire on the grounds of organisational change may be entitled to the enhancement of their pension benefits and to the early award of these benefits, in accordance with Scheme regulations.



## **15. Payment In Lieu Of Notice**

In organisational change circumstances the Trust will consider making a payment in lieu of a period of notice to terminate the contract of employment, whether the period of notice is the statutory minimum or an improved period of notice.

## **16. Redundancy during Maternity Leave**

Staff on maternity leave have special rights relating to suitable alternative employment. They have an express statutory right to any suitable vacancy that exists. This applies even where the employee does not have two years qualifying service. If they accept the suitable alternative role, it must be kept open until she returns from maternity leave. The trial period in the posts commences after she has returned from maternity leave.

The member of staff should also receive her normal notice entitlement, pay in lieu of notice and a redundancy payment if there is an entitlement.

## **17. Disability and Redundancy**

Particular care needs to be taken when drawing up selection criteria that could discriminate against a disabled employee. For example, it is likely to be a reasonable adjustment to discount disability related sickness absence when assessing attendance as part of a redundancy selection scheme.

## **18. Staff Who Remain In The Service**

It is important for Managers to consider the needs of staff that remain within the Trust following organisational change that has resulted in staff being made redundant. The morale of these staff is crucial to the effectiveness of the Trust in the future. Key to this is ensuring that staff are well informed and shown the value of their role in the future of the service.

## SECTION 2 - REDEPLOYMENT REGISTER

### 1. Equality Statement

This policy applies to all employees irrespective of age, race, colour, religion, disability, nationality, ethnic origin, gender or sexual orientation. All employees will be treated in a fair and equitable manner and reasonable adjustments will be made where appropriate to enable our disabled employees to remain in employment.

### 2. Introduction

- 2.1 The redeployment register has been created to assist members of staff who through ill health, disability (as defined by the Equality Act 2010) or organisational change require redeployment within the South Devon Health NHS Trust to suitable alternative employment.
- 2.2 The aim of this policy is to assist both managers and staff in understanding the redeployment process and to outline the steps that will be taken to find suitable alternative employment.
- 2.3 This policy will identify the requirements of managers in the redeployment process and confirm the commitment required from the affected member of staff. It will also outline the role of Human Resources and Occupational Health in finding a member of staff suitable alternative employment.

### 3. Redeployment opportunities for employees at risk due to organisational change within their existing department/service

The following arrangements will apply when there are suitable posts in the existing service and/or Division to accommodate some/all of the staff affected.

- 3.1 The appropriate manager will bring suitable posts in the re-organised service to the attention of staff at risk.
- 3.2 Staff at risk both in terms of organisational change and ill health/disability will be asked to indicate which post they wish to be considered for.
- 3.3 A member of staff will 'slot' into the new post if:
  - The new post encompasses 50% or more of the individuals existing responsibilities.
  - Their skills, knowledge and qualifications are considered appropriate and meet the essential requirements of the job specification.
  - If the post is within the current band of the staff member at risk.
  - If they are the only members of staff able to make such a claim.
- 3.4 Where more than one 'at risk' employee is eligible to apply for a post (based on the above criteria) limited competition will apply and individuals will be interviewed as

- per the organisation's Recruitment and Selection Policy. The successful candidate will be redeployed in the post.
- 3.5 When these procedures are complete, the manager will confirm each offer of employment to the employees at risk.
  - 3.6 All offers of suitable alternative employment together with all appropriate entitlements upon transfer or redeployment will be made in writing and staff at risk must reply in writing within 5 working days to accept or reject the offer.
  - 3.7 Staff at risk who reject offers of suitable alternative employment without good reason are in danger of:
    - 3.7.1 Missing the opportunity of redeployment;
    - 3.7.2 Losing entitlement to redundancy payments should they be made redundant.
  - 3.8 Where it is necessary to seek suitable alternative employment outside of the service at risk, individuals will be placed on the Trust's Redeployment Register.

#### **4. Redeployment opportunities for employees at risk due to ill health/disability within their existing department or service**

- 4.1 The following arrangements will apply when there are suitable posts in the existing service and/or Division to accommodate the member of staff affected by ill health/disability.
- 4.2 It will be the responsibility of the individual's line manager to identify in conjunction with their Divisional management colleagues any suitable vacant posts. It is reasonable to expect the line manager to identify any suitable vacancies within 2 working weeks.
- 4.3 The employee should be offered the vacant post within their existing Division where they meet the essential criteria and where through reasonable adjustments the post would be deemed suitable alternative employment.
- 4.4 The Occupational Health team and/or Disability Advisor should be involved in offering a professional opinion as to the suitability of any posts offered. It is recommended that the line manager contacts Human Resources for advice.
- 4.5 Where the Division has more than one employee requiring redeployment due to ill health/disability and where the vacant post is considered suitable for more than one person, limited competition will apply and individuals will be interviewed as per the organisation's Recruitment & Selection Policy. The successful candidate will be redeployed in the post.
- 4.6 Only once it has been confirmed that there are no suitable vacancies within the existing Division should the individual be placed on the Trust redeployment register.

## 5. Trust redeployment register

- 5.1 Once an individual has been identified as needing redeployment, as a result of organisational change, they will be invited to attend a meeting with their line manager and human resources. They may be accompanied by a trade union representative or work colleague, if they wish.
- 5.2 The purpose of the meeting will be to discuss the option of redeployment and to complete the Redeployment Form (Appendix 1). The outcome of this meeting will be put in writing.
- 5.3 Individuals that have chosen to pursue the option of redeployment due to disability or health reasons will be asked to attend an appointment with Occupational Health to discuss the details set out in Appendix 1, to assess the functional abilities of the individual and to advise on the type of activities, which would be suitable. The Redeployment Form (Appendix 1) will be completed by the employee with assistance from Human Resources and/or Occupational Health, if required.
- 5.4 The individual will be sent a letter confirming the types of posts, including hours of work, which have been agreed with them as being suitable alternative employment and will be given a copy of Appendix 1.
- 5.5 All vacant posts received by Employment Plus will be passed to Human Resources prior to their release to general advert. Posts that match the requirements of individuals on the redeployment register will be held for those individuals for 5 days. Any individual on the Redeployment Register will automatically be sent the Vacancy Bulletin.
- 5.6 Suitable posts will be identified by means of the individuals' own knowledge, skills, qualifications and the essential requirements of the post as outlined in the job specification and following discussion with the Appointing Manager.
- 5.7 Human Resources and the Appointing Manager will come to a joint decision as to whether the individual initially meets the essential criteria for the post and should be sent the post details for consideration. This decision will be based on:
- The individuals' own knowledge, skills, qualifications
  - The essential requirements of the post as outlined in the job specification
  - The advice received from the Occupational Health department (in medical cases only).
  - The appointing manager's knowledge of the vacant post.
- 5.8 Details of the post, including a copy of the advert, job description and job specification will be sent to the individual.
- 5.9 Individuals will be asked to communicate their interest to Human Resources by letter, e-mail or phone within 5 working days.

- 5.10 If the individual believes that the post does not meet their requirements they must contact their Human Resources Advisor confirming in writing their reasons why they believe the post is not suitable. This will help the Human Resources Advisor in their search for suitable posts.
- 5.11 Individuals on the redeployment register are urged not to disregard a post on the basis of the job description as their concerns can be explored further at a department visit.
- 5.12 The Trust will endeavour to find temporary alternative work, if at all possible, for an individual during their time on the redeployment register, whilst still continuing to identify permanent suitable alternative employment. It is a condition of the redeployment register that an individual make themselves available for temporary work if it is identified.

## 6. Departmental visits

- 6.1 It is expected that individuals on the redeployment register make themselves available for department visits and that managers' release staff from their duties enabling them to attend.
- 6.2 The Human Resources Advisor will do their best to arrange these visits within one working week.
- 6.3 **Individuals affected by Organisational Change** - arrangements will be made for the individual to visit the department and speak with the 'appointing manager' or their representative.
- 6.4 **Disability/III Health Re-deployment Only** - Arrangements will be made for the individual to visit the department with a member of the Occupational Health Team or Disability Advisor.
- 6.5 **Disability/III Health Re-deployment Only** - A member of Occupational Health or the Disability Advisor will assist the individual in identifying any reasonable adjustments that may need to be made or training requirements in order for the post to be suitable. This is a legal requirement under the Disability Discrimination (Amendment) Act 2005.
- 6.6 Following a department visit and within 24 hours the individual is required to make the Human Resources Advisor and their own manager aware of whether they wish to be considered for the post.
- 6.7 **Disability/III Health Re-deployment Only** - The member of Occupational Health or Disability Advisor will report back to the Human Resources Advisor confirming whether or not the post is suitable and detailing any suitable adjustments.

## 7. Post- visit meeting

- 7.1 If appropriate following a department visit a meeting will be arranged between the individual, appointing manager and human resources to confirm that the individual possesses the key skills required to do the job, that he/she will fit in with the existing team and to identify possible training needs. Consideration will then be given to offering a trial period.
- 7.2 Where there is more than one person on the Redeployment Register who expresses an interest, individuals will be interviewed as per the Trust's Recruitment & Selection Procedure. The successful candidate will be redeployed into the post on a permanent basis. At risk staff must be appointed if they have the skills/competences for the job, or could possess them with some reasonable retraining.
- 7.3 For the individual it is an opportunity to demonstrate their ability to undertake the post and to learn more about the post they have expressed an interest in.
- 7.4 Disability/III Health Re-deployment Only - This meeting should be used to discuss any reasonable adjustments that may be required in order to make the post suitable for the individual.
- 7.5 Following the meeting, if both parties are in agreement, the individual will be redeployed into the post on a four-week trial basis. During this time the individual's substantive post (permanent post) cannot be recruited into on a permanent basis.

## **8. The trial period**

- 8.1 The purpose of the trial period is to give the individual and the appointing department an opportunity to determine whether the arrangement is working. This also allows sufficient time for any reasonable adjustments to be made and for training needs to be identified.
- 8.2 During a trail period the individual will be paid the salary of their substantive post, this will be paid by their current department and not the department where the trial is taking place.
- 8.3 It is recommended that the redeployed individual and the appointing manager meet on a weekly basis to review the individual's progress and to identify any potential problems early on. Where appropriate the Human Resources Advisor and Trade Union Representative can be present
- 8.4 If during the trial period the individual decides that they do not wish to continue, then the trial period will cease and they will revert back to the redeployment register. If the trial ceases without good reason and the post is deemed suitable alternative employment individuals will be putting their continued employment and potential redundancy payments at risk.
- 8.5 It is important that the appointing manager, the individual and the individual's line manager meet with their People Hub Advisor in the final week of the trail period to

- make a decision regarding permanent redeployment into the post. A trade union representative, friend or colleague may accompany the individual if they wish.
- 8.6 At the end of the four-week period if all parties are satisfied then the individual will be redeployed into the post on a permanent basis.
- 8.7 If the trial period has identified that the post is not suitable then the post can be released to general advert and the Human Resources Advisor will continue to look for suitable employment for the individual member of staff.
- 8.8 In some circumstances with the agreement of both the department and the individual the trial period can be extended.
- 8.9 Time spent on the trial period will count towards the 3 months on the redeployment register.

## 9. Pay status on the redeployment register

- 9.1 An individual will be paid according to their pay situation during their time of the redeployment register. Therefore dependent on the circumstances of the individual they will be in receipt of the following during their time on the redeployment register.
- Full Pay (usually in the cases of organisational change where an individual remains in post).
  - Full Sick Pay
  - Half Sick Pay
  - No Pay
- 9.2 Where an individual is in receipt of Occupational Sick Pay they must continue to submit the appropriate medical certificates, failure to do so could result in their Occupational Sick Pay being ceased.
- 9.3 Where an individual is in receipt of Sick Pay or is in a no pay situation and undertakes a trial period, for the duration of the trial period they will receive the salary of their substantive post.
- 9.4 An individual who is in a no pay situation may request payment of any accrued annual leave for the current leave year. Individuals may still only carry forward 5 working days into the next leave year. **Please Note:** Payment of annual leave cannot be made where a current medical certificate is in force.

## 10. Redeployment into a post at a lower salary

### 10.1 Organisational Change

If, as a consequence of organisational change, an individual is required to move to a post of a lower salary, or a post, which is a reduction in basic hours, they will be entitled to protection of pay and conditions of service. Please refer to Section

3 of the Staff Redeployment & Displacement Policy – “Protection of Pay and Conditions of Service”.

### **Disability/Ill Health**

10.2 If as a consequence of ill health or disability an individual moves to a post at a lower salary or reduced hours they are not entitled to pay protection.

### **11. Failure to find suitable alternative employment**

11.1 An individual will be placed on the Redeployment Register for a period of 3 months. After which time if no suitable employment is found, it will be for the line manager with advice from Human Resources to make an appropriate decision regarding terminating an employee’s contract of employment.

11.2 In the case of individuals at risk of redundancy, termination of employment will include making the individual redundant.

11.3 In the cases of individuals with disability or ill health problems a decision may be taken to refer the individual back to Occupational Health for further medical guidance and advice including the possibility of an individual applying for Ill Health Retirement under the NHS Pension Scheme where appropriate.

11.4 Where an individual has been offered and refused suitable alternative employment and this results, at the end of the three month period, in them not being redeployed, their employment with the organisation will be terminated.

11.5 Upon a decision to terminate an individual’s employment they will receive payment in lieu of notice together with payment for any outstanding annual leave. In the cases of organisational change redundancy pay may also be applicable.

11.6 Only in exceptional circumstances will extending the time period that the individual is on the redeployment register be considered.

### **12. What is expected from staff on the redeployment register?**

12.1 It is expected that once a member of staff is placed on the redeployment register they will be committed to assisting the organisation in finding suitable alternative employment for them.

12.2 The individual is expected to make themselves available for appointments with Occupational Health and meetings with Management and Human Resources.

12.3 The individual will attend all departmental visits arranged on their behalf.

12.4 The individual will be committed to undertaking a four-week trial period and will be prepared to undertake further training if this is required.



### **13. Requirements of the appointing manager**

- 13.1 The appointing manager is expected to be supportive in arranging departmental visits and will ensure the individual requiring redeployment is given a detailed insight into the requirements of the vacant post.
- 13.2 The appointing manager and other relevant parties are expected to be flexible as regards redeployment and will give consideration to introducing reasonable adjustments.
- 13.3 If the appointing manager believes the individual to be unsuitable for the post they will need to explain their reasons to the Human Resources Advisor.
- 13.4 It is an expectation that every effort will be made to accommodate any reasonable adjustments that have been identified by Occupational Health or other suitably qualified parties.

### **14. Requirements of the individuals' line manager**

- 14.1 It is essential that the line manager together with their Human Resources Advisor complete the Redeployment Form (Appendix 1) this will ensure the individual is added to the register and that the above process is followed.
- 14.2 The line manager should continue to manage their member of staff, this should be carried out in conjunction with the relevant Human Resources Advisor.
- 14.3 The member of staff should be released from their duties to attend 'departmental visits'.
- 14.4 Where appropriate the member of staff should be given time to attend training that will assist them in finding suitable alternative employment.
- 14.5 The line manager upon advice from their Human Resources Advisor will be responsible for making a decision regarding the individual's long-term future.

### **15. Role of the Human Resources advisor**

- 15.1 The Human Resources Advisor will have responsibility for identifying suitable alternative employment, liaising with the individual, the individual's line manager and the appointing manager to arrange department visits and where appropriate a four-week trial period.
- 15.2 The Human Resources Advisor will:
  - Identifying suitable alternative employment.
  - Send details of the post to the member of staff.
  - Ensure the individual's line manager is kept fully informed of posts identified as being suitable.
  - Liaise with and ensure the appointing manager is kept fully informed of posts
  - Arrange departmental visits

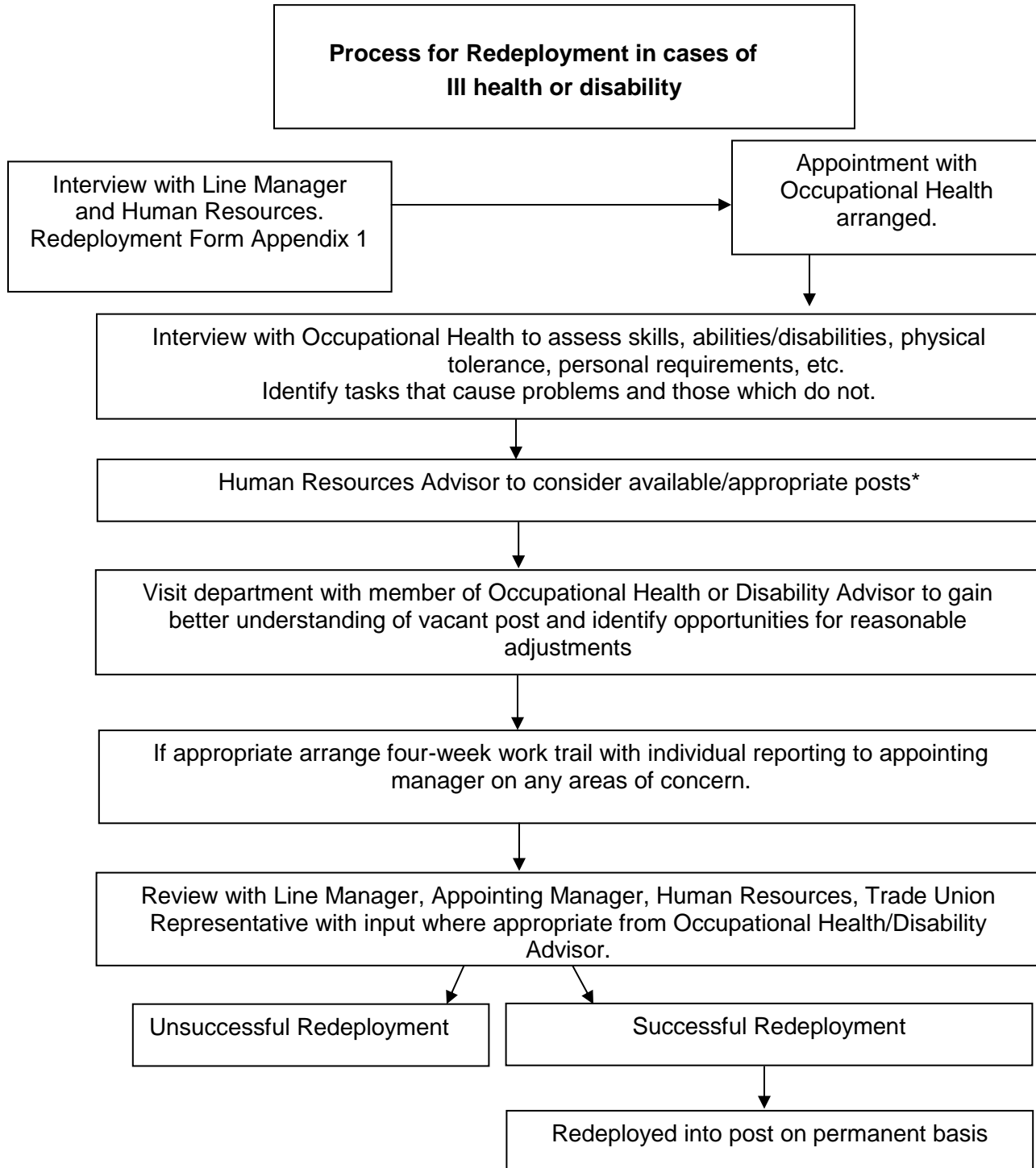
- Liaise with the Occupational Health Department regarding health or disability issues.

## **16. Role of the Occupational Health department**

16.1 To assist the organisation in the redeployment of staff who, because of a disability or health problems, are no longer able to fulfil the requirements of their current post. This will include:

- Meeting with the member of staff to assess functional abilities.
- To advise the line manager and Human Resources on restrictions an individual may have on undertaking certain duties/posts/hours.
- Where appropriate to undertake a workplace visit with the individual to assess any suitable posts and identify any adjustments that would enable redeployment to take place.
- To liaise with the individual, individuals' line manager, Human Resources Advisor, appointing manager and other Occupational Health staff as appropriate.

**17. Appendix 1 – Process for redeployment – ill-health or disability**



**This process will continue for three months after which a decision must be reached regarding the contract of employment.**

**18. Appendix 2 - Redeployment register form and skills profile**

**Name of Employee:** .....

**Address:** .....

.....

**Contact Telephone Number: Work:** ..... **Home:** .....

**Reason for Redeployment:** Organisational change  Ill Health  Disability

**Please give more details e.g. diagnosis, length of absence, attendance history, etc.**

.....  
.....  
.....  
.....

**SERVICE IN NHS:** ..... **SERVICE IN THE TRUST:** ..... (for redundancy/ill health purposes)

**MEMBER OF NHS PENSION SCHEME:** .....

**CURRENT POST:** ..... **DATE COMMENCED** .....

**BAND:** ..... **ANNUAL SALARY** .....

**REGULAR ENHANCEMENTS** .....

**HOURS:** ..... **SHIFT PATTERN:** .....

**MANAGER:** ..... **DEPT:** ..... **Tel:** .....

QUALIFICATIONS	



<b>COURSES</b>	

<b>EXPERIENCE – please identify previous posts inc. duties and responsibilities</b>

**Minimum Hours of work you would consider:..... Maximum Hours .....**

**\*What type of post/duties do you wish to be considered for?**

.....

.....

.....

.....

**\*Any areas you would be unable to work due to health and or personal reasons?**  
(Please state reason)

.....

.....

.....

.....



**\*Any restrictions on redeployment (e.g. health problems, working hours)?**

.....  
.....  
.....  
.....

\* For individuals requiring redeployment due to disability/ill health this should be discussed with the Occupation Health/Disability Advisor.

**How do you get to work? ..... Do you drive? .....**

**Do you have use of a vehicle? ..... How far would you travel?.....**

**\*Name of Occupational Health Staff: .....**

\* Only relevant for individuals requiring redeployment due to disability/ill health

**Signature: ..... Date: .....**

**This is confirmation that the individual has had the opportunity to discuss the need for redeployment with their line manager, human resources and where appropriate occupational health and has agreed to be considered for redeployment.**

**MANAGER'S SIGNATURE: ..... DATED: .....**

**EMPLOYEE'S SIGNATURE: ..... DATED: .....**

**Name of People Hub Advisor dealing with the case:**

.....

## SECTION 3 – PROTECTION OF PAY AND CONDITIONS OF SERVICE (PARTS 1 AND 2)

### PART 1 APPLICABLE TO ALL TRUST STAFF WITH THE EXCEPTION OF THOSE COVERED BY PART 2 BELOW

#### 1. Introduction

This agreement applies to any employee, who as a consequence of organisational change is redeployed to a new post and/or suffers a reduction in salary and/or hours worked within the standard working week. It provides:-

- (a) Short-term protection of earnings.
- (b) Long term protection of basic wage or salary, where redeployed into a lower band post.

#### 2. Definitions

The following terms in this agreement have the meanings ascribed to them below:-

**Suitable Alternative Employment** will be identified by means of the individuals' own skills, knowledge, circumstances and abilities and the essential criteria of the post as outlined in the job specification, consideration will also be given to any training requirements.

**Organisational Change:** any structural or managerial change that is not of the individual's making.

**Basic Salary:** is the weekly or monthly pay in respect of basic hours worked within the standard working week, but excluding payments made under section 3.2.

**Protectable Earnings** - the basic wage or salary as defined above plus the monthly average over the four months immediately preceding the first day of employment in the new post, including any payments made under section 3.2.

**Redeployment into a Lower Salaried Post:** occurs when the new post, irrespective of its band, carries an hourly rate, or a salary scale with a maximum point, lower than that applying to the post held previously, or lower than that of the personal salary held in the previous post.

**A More Senior Post:** is a post which carries an hourly rate, or a salary with a maximum point, higher than that applying to the new post or any subsequent post to which an employee may have moved.

**Reckonable Service:** is total NHS service (aggregated if discontinuous in with the provisions of Agenda for Change Terms and Conditions) but excluding service, which

has been the subject of a redundancy payment under the organisation's or any other NHS redundancy agreement.

### 3. Short term protection of earnings

- 3.1 An employee to whom this agreement applies is entitled to have the basic salary in their former post, plus the monthly average over the four months immediately preceding the first day of employment in the new post, protected in accordance with the following table. There will be no incremental rises or cost of living awards paid during the protection period. – In line with AfC protection arrangements.

<u>Reckonable Service</u>	<u>Protection Period (Months)</u>
Less than 12 months	1
1 year – 2 years	3
2 years – 5 years	6
Over 5 years	9
10+ years	12

- 3.2 Earnings in the new post will be offset against protectable earnings. The payments that will constitute 'protectable earnings' and that will qualify for short-term pay protection are:

- Unsocial Hours payments
- On-Call Payments

Unsocial Hours and On-Call payments will be defined as per Section 2 of Agenda for Change Terms and Conditions of Service or as per any local agreement that may be in operation.

If for any particular pay period the earnings in the new post exceed the protectable earnings, protection of earnings is extinguished and earnings in the new post are paid in full for that particular pay period.

- 3.3 When calculating earnings in the new post, the rates used for calculating payments in respect of overtime, shift work and other additional duties shall be those applicable to the new post.

### 4. Long term protection of basic salary where redeployment into a lower band is involved

- 4.1 An employee to whom this agreement applies who is redeployed from one post to another at a lower band than their existing post is entitled to protection of basic salary. There will be no payment of any incremental or cost of living increases. The period of protection will remain in force until:

- (a) the period of entitled protection expires or



- (b) the employee moves on his or her own application to another post, with a basic wage or salary which is either lower or higher, or
  - (c) the employee retires whichever occurs first.
- 4.2 Any additional earnings derived from work in the new post will be remunerated at the rate appropriate to the new post.

#### 4.3 Long Term Protection Entitlement

<u>Reckonable Service</u>	<u>Protection Period (Months)</u>
1 year to 2 years	3
2 years to 5 years	12
After 5 years	24
Over 10 years	36

- 4.4 The 1995 and 2008 sections of the NHS Pension Scheme have provisions to protect an employee's 'pensionable' salary at the end of the Long term protection period. This means that the Pension benefits will be protected by NHS Pensions on the higher salary upon an application by the employee. The application must be made within 3 months of the protection period ending.
- 4.5 On retirement, two periods of pension benefits will be calculated, the first period of service protected on the higher grade and the second, from the end of the protection period to the date of retirement based on the lower grade salary. Please contact the Trust's Pensions Manager for details of how to make an application.
- 4.6 This protection is not relevant to benefits earned in the 2015 Scheme, because it is a Career Average Revalued Earnings (CARE) scheme where the benefits earned are based on pensionable earnings across the member's career.

### 5. Expiry of long term protection

- 5.1. Where an employee has accepted a post at a lower band with subsequent protection, at the end of the protection period the employee takes on the salary of the new (lower band) post.

### 6. Interaction between short term and long term protection

- 6.1. Where an employee has the right to long term protection and short term protection; until the short term protection expires, the employee shall be paid according to the conditions or whichever right is the more favourable to the employee. Thereafter payment is on the basis of the on-going entitlement to the long-term protection. Short and long term protection will run concurrently.

**7. Protection of conditions of service**

- 7.1. Employees required to move to a new post will acquire the terms and conditions of service appropriate to the new post.

**8. Appeals**

Where an individual considers that the interpretation and/or the application of this procedure are incorrect, he/she will have the recourse to the organisation's Grievance Procedure.

**9. Subsistence and travelling**

Where an individual is required to travel further from home to base in their new post than their previous post they will be required to claim travelling expenses on a short-term basis as detailed in Annex M and N of Agenda for Change Terms and Conditions of Service.

**10. Subsequent change of post**

Each subsequent change of post due to an organisational change covered by this agreement shall attract protection in its own right.

**11. Pensionable age**

Members of staff of pensionable age will have an entitlement to their cases being considered on an individual basis subject to the provisions of this policy and the provisions for premature retirement.

Amended in line with AfC terms and conditions para 46.36 and Annex Q, leads and allowances incorporated into pay bands, Section 2 Working Outside Normal hours and Annex D.

## **PART 2**

### **APPLICABLE ONLY TO THOSE STAFF WHO TUPE'D ACROSS FROM NHS DEVON TO TORBAY CARE TRUST IN 2011**

#### **1. Introduction**

This agreement provides:

- 1.1 Short term protection of earnings upon organisational change;  
Long-term protection of basic wage or salary on downgrading;  
Protection of certain other conditions of service.

#### **2. Definitions**

The following expressions in this procedure have the meanings ascribed to them below:

- 2.1 Organisational Change - Any structural or managerial change.
- 2.2 Basic Wage or Salary - Basic wage or salary is the weekly or monthly sum due in respect of basic hours worked by the individual concerned within the standard working week attributed to their post, taking excluding any payment made in respect of 'acting up'. Also excluded are payments listed as additional earnings (refer Appendix 1).
- 2.3 Protectable Earnings - Basic wage or salary as (defined above) plus the monthly average over the four months immediately preceding the first day of employment in the new post of the additional earnings listed in Appendix 1.
- 2.4 Downgrading - Occurs when the new post, irrespective of its grade or title, carries an hourly rate, or a salary scale with a maximum point lower than that applying to the post held previously, or lower than that of the personal grade in the previous post.
- 2.5 A More Senior Post - Is a post that carries an hourly rate, or a salary with a maximum point, higher than that applying to the new post or any subsequent post to which an employee may have moved.
- 2.6 Reckonable Service - Is total NHS service (aggregated if discontinuous), but excluding service, which has been the subject of a redundancy payment under the Agenda for Change terms and conditions.
- 2.7 Mark Time - Situation following the period of long term pay protection in which employee shall continue to receive their existing level of basic salary/wage without the benefit of annual pay rises until the basic wage or salary of the new post if equal to that of the post previously held.

### 3. Short term protection of basic salary

- 3.1 An employee to whom this agreement applies is entitled to have certain earnings (protectable earnings) in the former post protected on a mark time basis in accordance with the following table:

<u>Reckonable Service</u>	<u>Protection Period (Months)</u>
1 year to 2 years	2 months
2 years +	6 months

- 3.2 Earnings in the new post will be offset against protectable earnings. If for any particular pay period, the earnings in the new post exceed the protectable earnings, protection of earnings is extinguished and earnings in the new post are paid in full for that particular pay period.
- 3.3 When calculating earnings in the new post, the rates used for calculating payments in respect of overtime, shift work and other additional duties shall be those applicable to the new post.

### 4. Long term protection of basic wage or salary where downgrading is involved

- 4.1 An employee to whom this procedure applies who is moved from one post to another and who is downgraded as a result of the move is entitled to full protection of basic wage or salary, with benefit of any subsequent improvement or increment applying to the scale until:
- 4.2 The period of protection to which they are entitled ends (refer Appendix 1), or:
- 4.3 The employee is appointed to a post, in which the normal basic wage or salary is equal to or exceeds the protected basic wage or salary, or:
- 4.4 The employee moves on his or her own application to another post, with a basic wage or salary, which is either lower or higher, or:
- 4.5 The employee retires.

If the period of full protection specified expires before 4.2, 4.3 or 4.4 above, protection shall continue on a mark time basis until the basic wage or salary of the new post is equal to that of the post previously held.

Any additional earnings derived from work in the new post will be remunerated at the rate appropriate to the new post.

## **5. Interaction between short-term and long-term protection**

- 5.1 Where an employee has the right to long-term and short-term protection, to ensure that earnings in the new post are not greater than earnings in the previous post and until the short-term protection expires, the employee shall be paid according to the conditions of whichever right is the more favourable to the employee. Thereafter, payment is on the basis of the on-going entitlement to long-term protection.

## **6 Protection of conditions of service; hours and annual leave**

- 6.1 Employees required to move to a new post will acquire the hours appropriate to the new post.
- 6.2 Annual leave allowances will be protected with subsequent improvements while basic pay is fully protected and on a mark time basis thereafter

## **7 Entitlement to opt for Terms and Conditions of the new Post**

- 7.1 Employees with an entitlement to long-term protection may, at any time, opt for the complete package of remuneration and condition of service applicable to the new post. This option, once exercised, cannot be cancelled.

## **8 Protection of Entitlement under NHS Pension Scheme**

- 8.1 In circumstances where an employee who is a member of the 1995 or 2008 section National Health Service Pension Scheme is within three years of his/her normal age of retirement they shall, on a personal basis, enjoy full protection until retirement age irrespective of their qualifying entitlement.
- 8.2 This protection is not relevant to benefits earned in the 2015 Scheme, because it is a Career Average Revalued Earnings (CARE) scheme where the benefits earned are based on pensionable earnings across the member's career.

## **9 Conditions**

- 9.1 Short-term protection of earnings is conditional on the employee accepting any subsequent offer of another suitable post that attracts a basic wage or salary in excess of the basis wage or salary applying to the new post.
- 9.2 Protection of basic wage or salary where downgrading is involved is also conditional on the employee giving an undertaking to move to a more senior position within the PCT. If an employee fails to give such an undertaking within four weeks of the day on which the downgrading takes effect, or if he or she initially or subsequently unreasonably refuses to apply for or to accept a more senior post, protection shall discontinue.

## 10. Appendix 1 - protection of earnings

### Short term protection of earnings

The following payments should only be included in the computation of the four-month average if they are a regular requirement of the job: -

- Special duty payments
- Excess hours payments

Allowances for: -

- Shift duty
- Night duty
- Unsocial hours, standby and on call duty
- Acting up

### Long term protection of earnings

<u>Reckonable Service</u>	<u>Protection Period in months)</u>
0 years to 1 year	Mark Time only
1 year to 2 years	12
2 years to 3 years	24
3 years to 5 years	36
5 years plus	48

(Reference Paragraph 4.5 – ‘Mark Time’ – this shall apply following expiry of long-term protection).