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The issue of this page is the overall issue of this procedure.
 The current issue of individual pages are as follows:

1. INTRODUCTION

- 1.1 Sherwood Forest Hospitals NHS Foundation Trust actively manages its services so as to ensure the provision of the most effective health care for patients and customers within its resources. It recognises that as a result, changes may need to be made to the Trust's organisational requirements which may affect staffing needs.
- 1.2 "Organisational changes" may include the reorganisation, relocation, merger, significant expansion or reduction of a function, competitive tendering or outsourcing, or a major change in working practice. All such changes will be conducted in accordance with this document which incorporates best practice and legal requirements and aims to provide a framework for common understanding for managers, staff and trade unions.
- 1.3 The policy applies to all Trust employees except agency workers.
- 1.4 It is the Trust's intention to provide a stable work environment and sustain security of employment for its employees. However the Trust must retain sufficient flexibility to ensure its economic viability and sustainability in a competitive environment.

2. POLICY PURPOSE AND AIM

- 2.1 The purpose of this document is to set out the Trust's approach to the management of organisational change and the procedures that should be followed by managers wishing to implement major change.
- 2.2 The principles and procedures support the aim of managing strategic and operational change in a way that is both supportive to staff and enhances the provision of the highest quality provision of patient care.

3. DEFINITIONS

3.1 Organisational Change

Is any structural or managerial change in the organisation of service provision impacting on the workforce. These include changing the structure of a particular area or department. These changes will also include changes of skill or grade mix, changes in working practices, changes in hours of work or working patterns, the introduction of new or changed roles, or a reduction in the number or type of posts required overall.

3.2 Workforce Change Group

A consultation group which operates in partnership with staff side leads to note proposals and monitor their impact. Terms of Reference for this group and organisational change templates are in the managers toolkit.

3.3 Displaced Employee

A displaced employee is a person whose position/job no longer exists due to an organisational change. Any employee who is displaced will be declared 'at risk' and enter the 'at risk' process.

3.4 At Risk

Employees who have been informed that their current post may no longer exist within the proposed new structure. Any individual with 'at risk' status will be afforded preferential rights regarding suitable alternative employment within the NHS

3.5 Continuous Service

Full or part time employment with the Trust or any previous NHS employer provided there has not been a break of more than one week (Sunday to Saturday) between employments. This reflects the provisions of the Employment Rights Act 1996 and Agenda for Change (AfC) handbook (where applicable) on continuous employment.

3.6 Reckonable Service

Continuous Service plus any service with a previous NHS employer where there has been a break of 12 months or less. At the Trust's discretion any period of employment outside the NHS which is relevant to NHS employment may be counted as Reckonable Service. For further information, refer to the AfC handbook.

3.7 Slot in

Identification of jobs within a new structure where the duties and skill requirements are at least 70% of their existing jobs description. Slotting in does not require a competitive job selection process, nor are staff placed 'at risk'(unless there is a reduction of number of posts available).

3.8 Ring Fencing and Restricted Competition

Posts available in the new structure which are deemed suitable alternative employment and are 'ring fenced' for 'at risk' employees to compete via a selection process. Posts are identified via selection pools and are outlined in the HR Framework.

3.9 Redundancy

A redundancy is when an employee is dismissed because their job no longer exists within an organisation.

3.10 Suitable Alternative Employment

Suitable alternative employment can be within the selection pools or within the Trust. The following will apply to displaced and 'formally at risk' staff. Suitable alternative employment is work that is on broadly similar terms and within the same range of skills required as the current employment where the individual meets the essential criteria of the person specification. Staff 'at risk' will be given prior consideration for suitable posts in line with their skills, experience and capabilities.

When considering if a role is considered suitable alternative employment, the following factors will be taken into account;

- Geographical location
- Grade/banding
- Pay and protection of earnings
- Personal circumstances
- Status of role
- Skills and qualifications
- Hours of role

An employee may lose their right to occupational and statutory redundancy pay if suitable alternative employment is unreasonably refused.

3.11 Preferential Consideration for Suitable Alternative Employment

Preferential interviews will be afforded to employees who are identified as 'at risk' and apply for another post in the Trust. To qualify for a preferential interview they must be able to demonstrate that they can meet, or be trained, in the essential elements of the person specification. If they can demonstrate suitability they will then be guaranteed an interview.

3.12 Redeployment

This refers to an offer of alternative employment gained either through the at risk/restricted competition process or a post being offered under the preferential consideration process.

3.13 Revision of Banding

This occurs when the new post, irrespective of the title, is at a different Band than the current post, if the post is at a lower band, the Trust's Pay Protection Policy will apply.

3.14 TUPE (Transfer of Undertaking Protection of Employment)

These regulations apply when jobs or services are transferred in and out of the Trust.

3.15 COSOP

Cabinet Office Statement of Practice. National NHS guidance should be referred to if COSOP applies.

3.16 Contractual Notice

An employee receiving notice from the Trust is entitled to either the statutory minimum notice or an amount equivalent to that which they would be obliged to give the Trust as outlined in the contract of employment, whichever is the greater up to a maximum of 12 weeks.

4 ROLES / RESPONSIBILITIES / DUTIES

- 4.1 Staff are central to the achievement and success of organisational change. The Trust acknowledges that change can cause concern and uncertainty and should therefore be managed fairly and consistently in accordance with established good practice.
- 4.2 The Trust and individual departments will engage with Trade Unions/Staff Side and consult staff in any change management procedure. Staff also have a role to play in this procedure in engaging with the consultation process.
- 4.3 Managers are critical to the change management process and should ensure that they are in a position to respond to the concerns of staff in their teams. Managers should provide information to staff and trade unions so that they are able to make meaningful contributions to the consultation process
- 4.4 Managers must ensure that no member of staff is discriminated against on the grounds of contractual status, caring responsibilities, any protected characteristic as defined by the Equality Act 2010 e.g. ethnic origin, nationality, race, disability, gender, marital or partnership status, age, religion or belief, sexual orientation or transgender status, when applying this policy.
- 4.5 Managers should liaise with HR to ensure the Trust is not open to claims of discrimination as a result of a change management process and should be mindful of the need to consider making reasonable adjustments at the job design stage, when considering the suitability of alternative employment for an individual and in the arrangements for filling posts.
- 4.6 Staff are expected to play an active role during the pre-consultation and consultation stages, in the further processes of implementation and in identifying new career opportunities; particularly if they are at risk of redundancy.
- 4.7 Trade unions play a vital role in advising and representing staff undergoing organisational change and in working with managers to ensure that organisational change is managed with the least disruption and in accordance with the principle of avoiding compulsory redundancies wherever possible. The Trust will formally notify the trade unions of any proposed organisational changes and will undertake consultation with them in line with legal requirements.

5. PROCESS

Statement and Principles

- 5.1 Organisational change is driven by the business needs of the Trust and individual departments. Change can be triggered either by the external environment or by an internal review of organisational requirements. Examples of significant organisational change include the reorganisation, relocation, merger, expansion or closure of a service, competitive tendering or outsourcing, or a major change in working practice.
- 5.2 In order to meet changing business needs more effectively, there may be occasions when managers need to implement relatively minor changes. Reasonable minor changes and adjustments to duties and working practices may be implemented without recourse to the formal procedures in this document but will require reasonable consultation with staff affected, for example an individual job description.

Any situation which may lead to redundancy or significant change to contracts of employment will not be deemed to be a minor change.

5.3 The Trust and individual departments are responsible for deciding the size and most efficient use of the workforce but in doing so is committed to the following principles for managing organisational change :

- the Trust will provide such information about the proposed organisational change in accordance with good employee relations practice to disclose to staff and the trade unions
- the Trust will work in partnership with the Trade Union and Staff Organisation representatives from the earliest stage possible
- staff will receive notice of any organisational change which may affect their futures at the earliest opportunity
- staff will be treated as individuals with due regard to their personal and employment circumstances and their career aspirations at all stages of the change management procedure
- staff will have the right to be accompanied by a trade union representative or current work place colleague not acting in a legal capacity at formal meetings to discuss the organisational change
- requests by the employee for additional support at any individual meetings should be considered e.g. where disability is involved and familiarity with the impairment or the individual or specialist input would be beneficial.
- the Trust will consider all reasonably practicable steps to avoid compulsory redundancies
- staff will be able to access training and development, as appropriate to meet new skill requirements and where appropriate to identify new career opportunities, with funding and time to attend training and development activities being considered
- career support is available from the HR and Training and Development departments. This may include access to support in seeking SAE e.g. interview skills

5.4 Staff will be considered against their substantive post and contractual arrangements throughout the process e.g., regarding their suitability for 'slotting in' and 'ring fencing' etc.

6. CONSULTATION

Purpose of Consultation

6.1 In accordance with legislation and the partnership working principles of the NHS, the Trust commits itself to meaningful and appropriate consultation with trade unions and staff affected by the organisational change with a view to reaching agreement on the way forward although, there will be times when organisational change will need to proceed without a consensus being reached on all issues. The timing and extent of

consultation will be proportionate to the degree of proposed change, the number of staff affected and the impact on individuals.

- 6.2 The purpose of the consultation meeting, (via the Workforce Change Group) with trade unions and staff will be :
- to receive and where possible address any questions on the consultation document
 - to consider any comments or views on the consultation document including costings (which the Trust shall as far as practicable make available) before determining any final decision to proceed
 - to clarify any change processes and timeframes specific to the proposed organisational change exercise under discussion.

7. CONSULTATION PROCEDURE

- 7.1 Managers shall prepare a consultation document on the proposed organisational change having gathered information to support the need for change and consulted with HR as appropriate. (Appendix 1 - 5)
- 7.2 The consultant document will be presented to the Trade Unions at the Workforce Change Group. The group will advise if the document is robust to proceed to consultation with affected staff.
- 7.3 The consultation document will include details of the following, as appropriate:
- current situation analysis including staffing structure
 - impact on service/business
 - impact on other areas / services
 - consideration of any relevant health and safety assessment
 - completion of an equality impact assessment
 - any relevant job descriptions and job matched reports
 - the need for change and the rationale behind the change
 - the options that have been considered
 - the proposals for change including the proposed staffing structure(s) and any location change
 - the financial, staffing and workload implications of the proposals
 - the number and grades/bands of staff who may be at risk of redundancy as a result of the proposal
 - proposed timescale for consultation and implementation of the proposed change
 - the way in which staff will be selected for posts within the new structure or transferred

- if necessary, the selection criteria for redundancy
- the measures to be taken to avoid compulsory redundancies which may include natural wastage, redeployment with retraining, or voluntary early retirement or voluntary redundancy
- the proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect (reference NHS Terms and Conditions Handbook: section 16)
- details of any suitable alternative employment which may exist
- details of how this information will be disseminated to staff
- description of the consultation process, including planned meetings, timetable, how staff and representatives can respond and the deadline.
- the proposed method of calculating the amount of any redundancy payments to be made (over and above the statutory redundancy payment) to employees who may be dismissed.

8. TIME PERIODS FOR CONSULTATION

- 8.1 In all cases the Trust will allow sufficient time for meaningful consultation with staff and their representatives. In exceptional circumstances where changes need to be made very quickly, the trade unions will be briefed immediately and the verbal briefing will be followed by a written brief.
- 8.2 In a collective redundancy scenario, consultation will commence for a period of no less than the statutory time scales:
- where 20 - 99 redundancies are proposed then consultation should commence at least 30 days before the first redundancy takes place
 - where 100 or more redundancies are proposed then consultation should commence at least 45 days before the first redundancy takes place.
- 8.3 Trade unions and staff may request additional information or an extension of time if this is necessary to enable them to understand and contribute to an informed discussion on the merits of the proposal. Such requests will not unreasonably be refused, however where they cannot be accommodated a reason will be given.
- 8.4 Where it is proposed where 20 or more redundancies/terminations may occur within a 90-day period a HR1 form (appendix 21) will be required to be completed and returned to The Insolvency Service.

9. CONSULTATION WITH TRADE UNIONS

- 9.1 Early informal consultation with the trade unions is encouraged and should occur where possible. This is also known as pre-consultation. Meaningful pre-consultation often leads to an agreed shorter formal consultation time and greater staff satisfaction with the process.

- 9.2 Formal consultation with the trade unions will commence within the minimum timescales above once any informal comments have been considered and the consultation document has been finalised and presented to the Workforce Change Group.
- 9.3 Each change project will have a trade union lead, working in partnership with managers and HR to ensure process is followed and ensuring meaningful consultation. If a trade union member is a staff member within a department affected by the change they cannot be identified as the trade union lead for the project.

10. CONSULTATION WITH INDIVIDUAL STAFF

- 10.1 A collective consultation meeting will be held with all staff affected by the organisational change to announce the proposed change and explain the consultation process which will follow. At this meeting it is important a register of attendees is recorded.
- 10.2 Each member of staff affected by the organisational change will be provided with a copy of the consultation document. Staff who are absent from work for any reason including maternity leave, sickness absence, secondment to another organisation, career breaks etc. will be sent a copy of the consultation document at their home address / other suitable address so that they can participate in the consultation process and should be offered the opportunity to discuss the documentation further.
- 10.3 Each member of staff, including those absent from work, will be offered the opportunity of at least one individual meeting with their manager at which they have the right to be accompanied by an accredited trade union representative or current workplace colleague not acting in a legal capacity. HR advisory support will also be offered to support the process including engaging with manager, staff member and staff representatives.
- 10.4 At the meeting, each member of staff will be invited to comment and respond to the proposals, including how they may impact on their personal circumstances. It is recognised that staff may require time to respond and may not be able to do so at that particular meeting. Staff will therefore be made aware of their right to request further meetings with their manager during the consultation period.
- 10.5 A written record of the individual meetings will be kept and provided to the employee and their trade union representative where applicable. The record will be a note of the main points discussed at the meeting, not verbatim notes.
- 10.6 Regular updates and frequently asked questions may be circulated to staff throughout the formal consultation period. Throughout this period staff should be encouraged to discuss their concerns and queries with their line manager and trade union.
- 10.7 In addition to the individual consultation meetings, staff can be kept informed as appropriate by management, team meetings and briefings, newsletters, trade union meetings, email and other written communication and information supplied by the trade unions.

11. END OF CONSULTATION

- 11.1 At the end of the consultation period the manager will give full consideration to all comments received from staff and the trade unions and will make a decision on the way forward. The manager will update the consultation paper work and HR framework where applicable and re issue to the staff and trade unions covering outcome of the consultation and any changes, the change process to be followed and the timeframe. This information will include:
- the reasons for the decision/s
 - any relevant health and safety assessments
 - an explanation where the management decision is in conflict with the views of the trade unions representatives/staff and any actions taken in an effort to resolve any areas of conflict; or where the proposal has changed as a result of consultation
 - identification of posts which are the same or substantially the same in the old and new structures
 - arrangements for filling posts via Slotting In or Ring fencing
 - selection arrangements for posts within the new structure
 - measures that will be taken to avoid compulsory redundancies
 - arrangements for seeking suitable alternative employment
 - reference to the Trust's protection arrangements and how these will apply
 - support for staff who are affected by the change, including reasonable time off to seek other employment or undertake training
 - proposed timescales for each stage of the change process.
- 11.2 Where redundancies are inevitable managers should seek advice from HR on the selection criteria to be used to ensure the Trust is not open to legal challenge. Selection criteria will be discussed, and agreed, with trade unions.
- 11.3 Under normal circumstances, staff will be selected on the basis of their relevant skills, experience and qualifications to undertake the remaining jobs, as assessed through formal interviews and assessments held in accordance with Trusts recruitment and selection procedures. There may, however, be occasions where additional selection criteria are agreed with the trade unions during the consultation process, such as for example :
- Conduct and performance (as evidenced through the disciplinary and performance capability)
 - Attendance records (with due regard to the causes of absence and the equality impact of use of this criterion).
- 11.4 In considering any measures to avoid compulsory redundancies, including requests for voluntary redundancy or early retirement, operational efficiency and service needs must be taken into consideration. If a member of staff volunteers for

redundancy/early retirement, approval of the request will be subject to the needs of the service and the cost implications. Care must be taken to ensure that decisions are based on sound organisational reasons and do not breach equality legislation. All efforts will be made to mitigate redundancies (see section 15 below).

12. SUPPORT FOR STAFF

12.1 All staff affected by the organisational change will be encouraged to seek the advice and support of their trade union. Relevant support will be available and may include:

- help with the production of CVs/application forms, including assistance with NHS Jobs and preparation for interviews from the HR and Training and Development Department
- support in developing coping strategies and stress management, with support of the counselling service, and Occupational Health
- reasonable time to meet with recognised trade union representatives to discuss the change
- further assistance to staff who are at risk of redundancy will include reasonable time off to seek other employment or undertake training
- placement on the Trust and East Midlands Suitable Alternative Employment Register via HR see appendix 6.

12.2 Even after the change has taken place, the Trust acknowledges that staff may take some time to adjust to the change itself. Managers should remain available to staff to manage any issues that arise and support staff through the transition.

13. THE PROCESS FOR FILLING POSTS IN THE NEW STRUCTURE

13.1 There will be three stages in the process for filling posts in a new structure:

- Stage One. For those staff that are affected by the change. Posts in the new structure are filled either by 'slotting in' or by 'ring-fencing'.
- Stage Two. Any posts that remain vacant in the new structure following Stage 1 will be opened up to access by any staff on the Trust at risk register for whom the post is considered suitable alternative employment and they meet the essential criteria, this could include 'ring fencing' to a specific department in the first instance. This may include posts a lower pay band, in which case pay protection might apply. Priority will be given to employees who are in a redundancy notice period over employees who are on the register for other reasons e.g. Health issues.
- Stage Three. Any posts that still remain vacant will be advertised internally and/or externally, in line with the normal recruitment process.

13.2 The three stages may run concurrently but priority will still be implemented in this order to ensure that all reasonably practicable steps will be taken to avoid compulsory redundancies. Priority will be given to employees that are affected by the change.

- 13.3 Job descriptions and person specifications will be produced for new posts. Jobs will be matched or evaluated in partnership in accordance with the national NHS job evaluation scheme and the Trust's Local Agreement.
- 13.4 Selection criteria for all posts in the new structure (whether or not there is competition) must be non-discriminatory, fair, objective, clearly defined and based on the skills and competency requirements of the post. The selection criteria can be shared with staff to ensure transparency.
- 13.5 Staff who are offered posts during Stage One will be deemed to have been offered suitable alternative employment by the Trust. This will be confirmed in writing by the manager. This is on the basis that if staff are Slotted In or offered Ring fenced posts it will be assumed that the posts offered are suitable alternative employment and hence the consequences of refusing to accept these posts will be as per refusing suitable alternative employment and therefore the individual will not be entitled/eligible for redundancy payment.
- 13.6 Employees should only be turned down for posts where they fail to meet the essential criteria or where others in the at risk pool are considered to meet the requirements better the fact that there may be better candidates in the external labour market is not a reason for non-selection. Any member of staff who is not appointed to a post in the new structure will be offered post-interview feedback and further support where appropriate, and has the right to appeal via local grievance procedures.

14. STAFF AT RISK

- 14.1 When changes in staffing levels or skill mix are proposed which will lead to a reduction in the numbers of staff employed in particular grades, occupational groups or specialties, management will identify the positions, individual staff or pool of staff who are at risk of redundancy as a result of the changes in line with the agreed criteria and as outlined by the HR Framework. Staff who are acting up or on a secondment will be placed in the pool relating to their substantive post.
- 14.2 The identification of being at risk of redundancy is not a *notice* of redundancy.
- 14.3 Staff At Risk will be invited to an individual consultation meeting(s) with their manager and trade union representative or current work place colleague not acting in a professional capacity to:
- discuss how the proposed changes affect the individual
 - explain why the individual is at risk of redundancy
 - discuss ideas for avoiding redundancy dismissals, reducing the number of Staff At Risk who are made redundant and mitigating the consequences of any redundancy dismissals
 - explore the possibility of Redeployment/Suitable Alternative employment.
 -
 - explain the process for Redeployment including completing the Suitable Alternative Employment form (Appendix 6)

- explain the arrangements for protection of pay and terms and conditions where applicable
 - offer support and assistance
 - discuss any other relevant issues and processes which may include providing a redundancy payment estimate if requested.
- 14.4 Following the meeting, Staff At Risk will be given a letter within five working days to confirm their at risk status and the key points discussed at the meeting including answers, wherever possible, to questions raised at the meeting for which there were no immediate answers available at the time.
- 14.5 Staff At Risk will be given prior consideration for posts within the new structure where they meet the selection criteria, under Stage One of the process and as outlined in the HR Framework. Where they are selected for a new post they will normally be given the offer in writing within seven working days of the interview. Any training required will be discussed with the member of staff as part of the offer process; and they will have a right to a four week trial period to allow both sides to decide if the work provides a suitable alternative, whilst still protecting the individual's right to a redundancy payment (see section 16 below).
- 14.6 Staff who are not selected for a post in the new structure will be formally issued with notice of redundancy in accordance with the contract of employment. They will continue to be listed on the Trust and East Midlands' Suitable Alternative Employment register until their contract ceases or they are successfully redeployed.
- 14.7 There may be situations where it is necessary to give notice of redundancy in accordance with the contract of employment at the end of the consultation process.
- 14.8 Staff At Risk will be required to register with NHS Jobs and apply for suitable posts within the Local Health Community and Trust. The HR Recruitment Team will use the full functionality of NHS Jobs including "internal only" and "restricted vacancy" functionality to support redeployment of staff at risk.
- 14.9 Staff At Risk will be given prior consideration for other posts that are or become vacant in the Trust and, subject to the arrangements regarding suitable alternative employment and trial periods, they will remain on the register until their last day of service or until successful redeployment.
- 14.10 Special provision is made in law where an employee's job becomes redundant while he or she is absent on maternity, adoption, paternity, or parental leave; the employee is entitled to be offered any suitable alternative vacancy before the existing contract ends, in preference to employees who are not absent on such leave even if other employees are more suitable for the role.

15. REDUNDANCY

15.1 Definition of Redundancy

A member of staff may become redundant if they are dismissed and the reason for the dismissal is wholly or mainly due to:

- the fact that the Trust has ceased, or intends to cease, to carry on the activity for the purposes of which the individual was employed, or has ceased, or intends to cease, to carry out the activity in the place where the individual was employed OR
- the fact that the requirements of the Trust for staff 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.

16. SUITABLE ALTERNATIVE EMPLOYMENT

- 16.1 Suitable alternative employment will be an equivalent post defined in terms of pay, working hours, status, grade, duties and responsibilities, location and location allowances. It must be suitable to the individual's personal circumstances, skills and experience. It may be on any site operated by the Trust subject to individual travel considerations. Staff at Risk will be given prior consideration for suitable posts in line with their skills, experience and capabilities and where appropriate will receive protection of pay.
- 16.2 Where there are insufficient numbers of vacant posts within the Trust, the Human Resources Team will endeavour to identify suitable redeployment opportunities within the wider local Health Community and draw these to the attention of the staff.
- 16.3 Staff are reminded that under Agenda for Change terms and conditions an unreasonable refusal to accept suitable alternative employment offered by the Trust, or another NHS employer, will mean that they are not entitled to a redundancy payment. (See AfC Section 16).
- 16.4 In considering suitable alternative employment priority will be given to staff with a Contract of Employment with the Trust.
- 16.5 If the individuals are offered suitable alternative employment, a trial period will apply.
- 16.6 Staff who unreasonably refuse an offer of suitable alternative employment may lose their right to a redundancy payment.

17. TRIAL PERIOD AND TRAINING

- 17.1 A trial period will only apply to Staff at Risk where a formal offer of suitable alternative employment has been made. This also includes those staff who have been offered SAE whilst absent on maternity, adoption, paternity, or parental leave.
- 17.2 The purpose of a trial period is for both the manager and the individual to assess the suitability of the post as alternative employment.
- 17.3 Where staff have the potential ability but not the immediate experience to undertake full duties of the role, they will be provided with appropriate skills development/training. This will be provided where it is reasonable, practical and cost effective and where the member of staff demonstrates a willingness to learn and can apply the new skills within an agreed timeframe.

- 17.4 The trial period will normally last for 28 days but may be extended by mutual agreement in special circumstances, including where a member of staff requires additional training and development.
- 17.5 If the trial period is unsuccessful, as determined by the individual and/or the manager concerned, redundancy arrangements will apply as from the date when the original contract of employment will terminate. Until the end of their notice period Staff at Risk will be considered for other suitable alternative employment if available which will be subject to the same arrangements including a trial period.
- 17.6 If an individual works within a role for 28 days and the trial period has not been extended by mutual agreement and no concerns have been raised by the individual or manager, it will be deemed the individual has accepted the post as suitable alternative employment and hence the position becomes the individuals substantive role within the organisation.

18. CHANGE OF LOCATION

- 18.1 If, as a result of organisational change, there is a requirement to move staff from their normal place of work to another location within the Trust on a temporary or permanent basis and this results in increased travel costs to and from work, staff may be reimbursed their extra daily travelling expenses in line with the section 17 of Agenda for Change terms and conditions.

19. VARIATION TO CONTRACT

- 19.1 If, as a result of organisational change, there is a requirement to make changes to a member of staff contract of employment collective and individual consultation as outlined in 2 – 7 will be implemented.
- 19.2 Where there are changes in shifts or rotas there may be a requirement to seek advice from Occupational Health, particularly regarding reasonable adjustments.
- 19.3 At the end of consultation staff will be requested to consensually agree to vary their contract of employment via issuing a Consensual Variation to Contract Letter, see appendix 19.
- 19.4 If staff do not agree to consensually agree to vary their contract of employment, one option is to dismiss and re-engage staff on new terms and conditions of employment, by issuing a Termination and Re engagement letter, see appendix 20.
- 19.5 If staff do not re-engage on new terms and conditions, appeals against the decision to dismiss will be heard in accordance with the Trusts Appeals Procedure. The decision of the Appeal Panel will be final.

20. REDUNDANCY ARRANGEMENTS

- 20.1 A member of staff will have their contract of employment terminated on the grounds of redundancy if no suitable alternative employment can be found or if a trial period is unsuccessful.

- 20.2 The terms under which a redundancy payment are payable are available in section 16 of the AfC handbook.
- 20.3 Individuals can source independent financial advice in relation to tax, pensions etc.
- 20.4 Staff will not be entitled to redundancy payments on the grounds of redundancy if they :
- are dismissed for reasons of misconduct
 - at the date of the termination of the contract have obtained without a break, or with a break not exceeding four weeks, suitable alternative employment with the Trust or other NHS employer
 - unreasonably refuse to accept or apply for suitable alternative employment with the Trust or another NHS employer
 - leave their employment before expiry of notice, except if they are being released early
 - are offered a renewal of contract with the substitution of a new employer for the Trust.
- 20.5 Staff whose employment is subject to TUPE transfer will not be redundant and therefore will not be entitled to redundancy payments/early retirement on the grounds of redundancy.
- 20.6 For further information please refer to Section 16, of Agenda for Change: NHS Terms and Conditions of Service Handbook and the NHS Pension Scheme early retirement booklet or seek further advice from the Trust HR department or trade union.
- 20.7 The manager will liaise with HR in order to obtain details of redundancy entitlements and other aspects of the redundancy process. The manager will provide, in writing, the individual and their trade union representative with the following details:
- the number of weeks' notice, in accordance with the contractual notice period
 - the effective date of the redundancy, which will also be the last day of service
 - the number of days' outstanding annual leave, where applicable, to be paid in lieu
 - the amount of redundancy payment/enhanced pension benefits that will be paid, where applicable
 - what efforts will be made to assist the individual in seeking suitable alternative employment during the notice period
 - what support is offered during the notice period e.g. help with job search, CV and interview preparation
 - what work the individual will be expected to undertake during their notice period
 - that reasonable time off with pay will be given to seek and prepare for alternative work

- that early release will normally be given, unless there are compelling service reasons to the contrary, if the individual is successful in obtaining other employment outside the NHS and wishes to take this up during the notice period; the date of early release will then become the revised date of redundancy for the purpose of calculating any entitlement to a redundancy payment
- the right of appeal against selection for redundancy or the terms of the redundancy.

21. PROTECTION ARRANGEMENTS

- 21.1 Protection of Pay Policy provisions will be put in place in order to support staff who, as a result of organisational change, are required to move to a new post or if there are changes which affect the salary which could entail a reduction of earnings and certain terms and conditions of employment.
- 21.2 Pay protection will apply for the agreed periods and provisions as set out in the Pay Protection Policy or until the member of staff moves voluntarily to a new post within the Trust.

22. TUPE

- 22.1 Where there is a proposal to transfer services and staff to a different employer, there will be consultation with the trade unions at the earliest opportunity. This will usually be a minimum of 30 days (unless otherwise agreed) and where 100 or more staff are affected will be 45 days where reasonably practicable.
- 22.2 When services are transferred from one organisation to another in line with TUPE or by virtue of a Transfer Order under the National Health Service Act 1977, which mirrors TUPE, the employment of staff who are assigned to the services which are being transferred will transfer to the new organisation. TUPE applies in contracting out scenarios, retendering and where the services are brought back into the NHS.
- 22.3 Where TUPE is applicable, all the terms and conditions within the transferring employee's contract of employment (including relevant policies and procedures) will transfer with them and should not be changed as a consequence of the transfer.
- 22.4 Where staff have responsibilities spanning more than one NHS organisation or more than one service, discussions will take place with the individual, their trade union representative and the organisations concerned to determine if their employment should transfer. The options in this situation might be that the individual will transfer to one organisation with an agreement to provide services to the other(s), or have more than one contract of employment, or, in exceptional circumstances, to be declared at risk. Legal advice via HR must be sought should this situation arise.
- 22.5 In all of these circumstances, for the purposes of the consultation that will be carried out, the manager will identify the functions, posts and individual staff that will transfer or be affected in accordance with the obligations of TUPE and shall write to the staff affected and the trade unions informing them of the intention that staff will transfer. They will also share information relating to the implications of the transfer and any measures which will be taken in connection with the transfer as declared by the receiving organisation.

- 22.6 The manager will then hold one-to-one meetings with individual staff and their trade union representative to discuss the implications of the transfer, measures to be taken in connection with the transfer, answer any concerns or queries, discuss possible options if appropriate and consider personal circumstances. These discussions will be documented and confirmed in writing. Every possible support will be given to staff to understand the reasons for and implications of the transfer and to ensure they have the necessary information with which to prepare themselves.
- 22.7 Formal notice of a transfer will be issued as long before the date of the transfer as possible in order to comply with the obligations of TUPE and this policy. The Trust will make every effort to give up to 12 weeks' notice of a transfer, where possible. Where three months' notice is not possible, for example where the timing of external announcements or decisions of approval, a shorter notice period will be provided after consultation with the Workforce Change Group.

23. APPEALS

- 23.1 If there is a disagreement about whether or not an offer of employment is suitable, there is a right of appeal under the Trust's Disputes and Grievance Procedure.
- 23.2 Individual and collective concerns about organisational change relating to staff displacements or potential redundancies must be dealt with under this policy and procedure, and not under the trust's Disputes and Grievance Procedure
- 23.3 Appeals against the decision to dismiss an employee by reason of redundancy or against the offer of a suitable alternative post will be heard in accordance with the Trusts Appeals Procedure. The decision of the Appeal Panel will be final.

24. IMPLEMENTATION

- 24.1 The Trust will issue communications to staff to confirm the policy has been approved and will receive confirmation of where the policy is located.

25. EVIDENCE BASE

- ACAS
- People Management
- Chartered Institute of Personnel and Development Publications and Codes
- www.gov.uk
- NHS Terms and Conditions of Service Handbook, Jan 2010
- National Health Service Hospital Medical and Dental Staff and
- Agenda for Change Terms and Conditions Handbook
- Employment Rights Act, 1996

26. MONITORING COMPLIANCE

- 26.1 Monitoring of organisational change is undertaken on an ongoing basis by the Deputy Director of Human Resources and Workforce Change Group.

27. TRAINING REQUIREMENTS

27.1 Training has been provided to Managers on the application of this Organisational Change Policy and Procedure and update training is made available on a yearly basis. Trade Union Representatives also receive training via their union's training resources.

28. DISTRIBUTION

28.1 The procedure will be held on Trust intranet site under HR Policies.

29.0 COMMUNICATION

29.1 Communication will be through Team Briefing sessions and training update events.

30. AUTHOR AND REVIEW DETAILS

Date issued: January 2016

Date to be reviewed by: January 2018

To be reviewed by: Deputy Director of Human Resources

Executive Sponsor: Executive Director of Human Resources

