

Redeployment Policy & Procedure

Version 2.0

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1 Introduction

- 1.1 The objective of the Hull Teaching Primary Care Trust (the PCT) is to support staff in their search for suitable alternative employment when they meet the criteria for redeployment in a fair and transparent way. This procedure should be read in conjunction with the PCT's appropriate policies and procedures.

2 Purpose

- 2.1 The purpose of this document is to provide guidance to managers and staff on the Trust's approach to redeployment of staff affected by organisational change, redundancy or capability (including capability due to ill health). It aims to provide guidance for managers to follow, which wherever possible will ensure:-

- Individuals have the maximum opportunity to secure continuing employment
- Staff are supported in understanding and preparing for change
- The PCT can retain skills, knowledge and experience
- The PCT can avoid the costs associated with enhanced pensions and redundancy
- The PCT meets its legal requirements and aligns with principles of good employment practice
- Compulsory redundancies are regarded as a last resort
- Retain knowledge and expertise within the healthcare system wherever possible
- Ensure staff flexibility which may include different roles, work location and developing new skills

The principles to be followed in operating this Policy and Procedure are as follows:

- Open and transparent
- Honest
- Fair
- Effective, timely and understandable communications
- Working together with Staff Side Representatives

3 Scope

- 3.1. This Policy and Procedure applies to all employees of the PCT who are designated at risk. This Policy and Procedure is designed to be used where potential redeployment situations are identified.

4 Responsibilities

4.1 Human Resources

4.1.1 The HR Department will ensure adherence to the agreed procedures and provide support and guidance to managers and affected staff throughout the process.

4.2 Managers

4.2.1 Managers are responsible for providing information in a timely, open, honest and understandable way. They must also fully engage with the process, not only as managers with staff at risk, but also as managers with vacancies that may be viewed as potentially suitable alternative employment for redeployees.

4.3 Trade Union Partners

4.3.1 Staff representatives have a role in supporting and advising staff and providing feedback.

4.4 Employees

4.4.1 Staff affected by change will continue to undertake their existing role throughout the period of redeployment and will demonstrate a commitment to undertaking agreed training or development associated with securing a new role. They must also agree to fully engage with the process and apply for suitable alternative employment as opportunities arise, having a flexible approach to the redeployment process, which may include considering, applying for and accepting different roles, work location, developing new skills and potentially preparing to work within another sector and/or for another employer.

5 Definitions

5.1 For the purpose of this policy the definitions are as follows:-

‘Change’ - ‘Change’ is defined as major or significant organisational change which may include:

- The closure, transfer or restructuring of a specific service(s) or facility
- A decision to accept a tender for a service previously provided in-house
- A specific programme designed to achieve efficiency savings
- Response to statutory requirements
- Response to local/regional/national requests.

‘At Risk of Organisational Change’ - The following defines the use of the term ‘at risk of organisational change’.

- Individuals will be at risk of organisational change when it is identified that their substantive role is affected by organisational change (e.g. their role may change, cease to exist or there may be more staff than posts within their band in the revised structure). Individuals will be subject to organisational change and, therefore, identified as 'at risk of organisational change' at the point at which there is a formal announcement of reconfiguration or change
- Individuals will be formally 'at risk of redundancy' at an appropriate point within the timescales of redundancy legislation and will continue to be 'at risk' until such time as they secure suitable alternative employment, resign or leave as a result of redundancy
- Individuals will be under notice of redundancy if they have not secured a suitable alternative at the point at which contractual notice must be issued.

'Ringfenced Interview' - This means that the pool of candidates to be considered for a post is restricted i.e. ring-fenced, to a particular group of staff. Interview panels for ringfenced interviews should include a HR representative wherever possible.

'Preferential Interview' - This means that, if an employee designated 'at risk' applies for another post within the PCT and demonstrates on the application form that they meet all essential elements of the person specification, they will be guaranteed an interview. At this stage, interviews will be restricted to those designated 'at risk' and there may be specific criteria established (such as staff only applying for posts within their band). An invitation to attend a preferential interview is not a guarantee of a formal offer. In circumstances where the employee is unsuccessful, the appointing manager must give written reasons for their decision and feedback must be offered.

In normal circumstances there will be a maximum of three opportunities for preferential interviews, however dependant on the scope of organisational change (e.g. total number of staff involved) this number may be reviewed.

'Redeployment' - This means an offer of suitable alternative employment gained through an 'at risk' employee successfully applying for a vacant post.

'Relocation' - If an employee's base is changed as a result of redeployment, the employee may be entitled to claim excess travel, where applicable, under the PCT's Excess Travel Policy.

'Suitable Alternative Employment' - The PCT will work with employees to identify suitable alternative employment. The employee's knowledge, skills and competencies, qualifications and experience will be assessed against the job description and person specification of the vacant post(s). The post may not necessarily be at the same band/grade, salary, hours of work, base or status. In deciding whether a post can be considered as a reasonable alternative, the PCT and the employee should take account of the above factors. Sufficient information on alternative employment will be given to enable the employee to decide whether or not to accept the post.

'Rejecting Suitable Alternative Employment' - If the employee believes that alternative post(s) are not suitable they are required to express this in writing and must

set out their grounds for rejection. This would be viewed as the first stage of the Grievance Procedure. In considering an employee's rejection the following will be taken into account: the similarity of knowledge, skills, competencies, hours of work, base, band, salary and status.

Employees who unreasonably reject an offer of suitable alternative employment may lose any previous entitlement to redundancy pay. An offer of suitable alternative employment must begin either immediately after the old job comes to an end or within four weeks of the date of termination of the old job. When a redundant employee accepts an offer of new employment within these timescales he or she is not regarded as redundant in law and such a break may not be viewed as a break in service.

'Trial Period' - Where the new post is different from the old post the employee is entitled to a statutory four-week trial period. The purpose of the trial period is for the employee and the employer to assess the suitability of the post. However, if the post is the same as the old post there is no statutory requirement for a trial period to be undertaken. If a trial period takes place and it is agreed that the position cannot be viewed as suitable alternative employment the position reverts back to that of redundancy. The date for termination on the grounds of redundancy for the purposes of calculating statutory redundancy pay in these circumstances is the date on which the original post ended, not the end of the trial period.

'TUPE (Transfer of Undertakings Protection of Employment)' - If TUPE applies it will mean that employee(s) transferring to a new employer under this provision will retain the contractual terms and conditions in existence immediately preceding the transfer. If TUPE does apply to a particular transfer, staff will be consulted appropriately and Trade Union Partners will be fully involved from the formative stage. Where a PCT's current configuration changes as a result of a major change process which may be national, regional or local, remaining employees will be transferred to a successor organisation under their existing terms and conditions of service via an NHS Staff Transfer Order. The Staff Transfer Order will reflect the transfer of the function as if TUPE regulations apply.

'Issuing notice' - At the end of the statutory redundancy consultation period, where a member of staff has not been successful in securing suitable alternative employment, they will be issued with notice of redundancy. The notice will be handed to the employee during a one-to-one meeting with a senior manager and/or HR representative. Individuals will be offered the opportunity to bring a Trade Union representative or work colleague to this meeting.

6 Equality and Diversity

6.1 The PCT is committed to:

- Eliminating discrimination and promoting equality and diversity in its Policies, Procedures and Guidelines, and
- Designing and implementing services, policies and measures that meet the diverse needs of its population and workforce, ensuring that no individual or group is disadvantaged.

- 6.2 To ensure the above, this Policy and Procedure have been Equality Impact Assessed. Details of the assessment are available on the PCT's website or by calling the PCT on (01482) 344700.
- 6.3 Where employees have difficulty expressing themselves because of language or other difficulties help should be sought from their Trade Union or other employee representatives or colleagues.
- 6.4 Consideration should be given to the provision of an interpreter or facilitator if there are understanding or language difficulties (perhaps a friend of the employee, or co-employee).

7 NHS Constitution

- 7.1 The PCT is committed to:
- the achievement of the principles, values, rights, pledges and responsibilities detailed in the NHS Constitution, and
 - ensuring they are taken account of in the production of its Policies, Procedures and Guidelines.
- 7.2 This Policy and Procedure supports the NHS Constitution with the staff right 'To consultation and representation either through the Trade Union or other staff representatives (for example where there is no Trade Union in place) in line with legislation and any collective agreements that may be in force' (Section 3a of the NHS Constitution).

8 Ill Health

- 8.1 Where staff, as a result of a medical condition or ill-health, are unable to continue to work in their current role or environment, they will be designated 'at risk'. In these circumstances staff will be entitled to preferential interviews for other posts provided they meet all the essential elements of the Person Specification. This will only occur after consultation with:
- the member of staff concerned
 - their manager,
 - the recruiting manager,
 - Human Resources,
 - Occupational Health
 - Trade Union representative (where appropriate).
- 8.2 Redeployment will only be considered after all other options have been explored and discounted (e.g. modification/adaptation to their substantive role or environment). They will be interviewed and will be appointed if they satisfy the interview panel of their suitability for appointment and all necessary clearances are satisfactory to the PCT. If more than one member of staff being interviewed is 'at risk' the normal process will be followed. The HR representative may attend the interview in an

observatory capacity and they should provide the redeployee with feedback following the interview.

8.3 If the interview panel decide not to appoint they must advise the applicant of the reasons and this should be confirmed in writing.

8.4 Where redeployment is due to health reasons prior to staff being designated 'at risk' a formal risk assessment would be undertaken with the appropriate line manager and the Occupational Health Department.

9 Redeployment Interview

9.1. Staff identified as under notice of redundancy or who have been recognised as not capable of fulfilling the requirements of their current post under either the Capability Procedure or the Sickness Absence Policy and Procedure will be offered a redeployment interview with a Human Resources representative. Individuals will also have the right to be supported by a trade union representative or work colleague at this interview. Staff will be given the opportunity to discuss the reason for redeployment, their skills, qualifications, experience and abilities and will be offered Occupational Health support. Staff will be asked to identify:-

- Ability to travel and travel needs for the purposes of suitable alternative employment
- Geographical base flexibility for any redeployment opportunities
- Skills, training and experience and potential learning and development needs
- Current band and level of responsibility
- Personal requirements
- Type and level of role that would be deemed suitable by the PCT
- Hours and flexibility required for consideration
- Flexibility in relation to roles, work location and developing new skills
- Options external to the PCT
- Signposting needs as appropriate (e.g. OH support/Job Centre/Payroll Department)

10 Redeployment Register

10.1 A record of all staff who have been identified, as 'at risk' will be held by the HR Department. Such details will be held as necessary to facilitate the placement process and will remain on file until the individual is either successfully placed or their employment is terminated by reason of redundancy or some other substantial reason.

11 Human Resources Support

11.1 A HR representative will be identified to provide support to the individual(s) during this period of uncertainty. HR will continue to have regular meetings with the individual(s) to discuss concerns, possible job opportunities, learning needs and/or provide information and advice. The HR representative will complete a redeployment form with the redeployee and will signpost as appropriate. The HR representative will assist the redeployee in their search for suitable alternative employment. They will

encourage a flexible approach; signpost the redeployee appropriately to other services; explain the potential implications in relation to the decisions redeployee's make and; contact recruiting managers to facilitate the process wherever possible. They will also ensure that local, regional and national requirements are adhered to (e.g. clearing house arrangements).

12 Suitable Alternative Employment

- 12.1 Redeployees will be encouraged to apply for posts within and external to the PCT and will be supported by the Human Resources team and their manager. If a redeployee applies for a post within the PCT and they meet the essential criteria of that post they are guaranteed an interview as long as this fits with PCT criteria (e.g. where there is organisational change the PCT may agree with its Trade Union Partners specific criteria such as redeployees applying for posts within band).
- 12.2 If the HR representative becomes aware of a post that may be viewed as potentially suitable alternative employment for a redeployee within the PCT they will contact the Director/Assistant Director/recruiting manager to discuss the potential match further. They may then hold the vacancy for a week whilst further consideration is given to the suitability of the match between the redeployee and the vacancy and a preferential interview may then be arranged. Further advice may be sought by the HR representative from the Occupational Health Department for redeployees seeking redeployment due to ill health capability issues.
- 12.3 If any individual(s) is identified as a potential candidate for the vacant post the following process will be followed:-
- The appropriate information of the vacancy will be forwarded to the individual(s) asking for a response by a specific date. This will support the individual being given prior consideration for any post that arises.
 - If redeployees do not express an interest in the vacancy it will be released to be recruited to in the normal way and the HR representative will discuss the implications of the redeployee's decision with them.
 - If a redeployee is interested they will be asked to apply for the post. Their application will be assessed against the criteria for the post and if they meet the essential criteria an interview will be arranged.
 - Interviews will be conducted in accordance with the Trust's Recruitment and Selection Procedure provided the individual meets the essential criteria as stated on the person specification.
 - Clearances will be obtained in the normal way where required.
 - Human Resources may attend the interview in an observatory capacity and will provide feedback to the redeployee following the interview.
 - If an individual demonstrates they meet the requirements of the post they will be offered that post.

- The HR representative will discuss arrangements for trial periods where appropriate with recruiting managers and redeployees.

12.4 If an individual who is 'at risk' is successful and is offered the post the following points apply:

- All terms and conditions relating to the new employment must be clearly stated in a formal offer letter
- The individual is entitled to a trial period
- Specific protection arrangements should be put in writing
- Implications of refusal of suitable alternative employment must be made clear in writing
- Redeployees should seek advice from the Payroll Department/Pensions Agency if they have questions relating to any potential impact on their pension.

12.5 If a redeployee identifies a vacancy they are interested in which they have not been previously identified as a potential suitable candidate for, the individual should notify the HR representative who, if appropriate, may be able to arrange a preferential interview.

13 Trial Period

13.1 An employee who is under notice of redundancy has a statutory right to a trial period of four weeks in an alternative job where the provisions of the new contract differ from the original contract.

13.2 The trial period begins when the previous contract has ended and ends four weeks after the date on which the employee starts work under the new contract. The effect of the trial period is to give the employee a chance to decide whether the new job is suitable without necessarily losing the right to a redundancy payment. The four week trial period can be extended for retraining purposes by an agreement which is in writing, specifying the date on which the trial period ends, describing the employee's terms and conditions after it ends. If the employee works beyond the end of the four week period or the jointly agreed extended period any redundancy entitlement will be lost as the employee will be deemed to have accepted the new employment. The PCT must write to the employee to confirm this when the alternative job offer is made.

13.3 The PCT should also use the trial period to assess the employee's suitability. Should the PCT wish to end the new contract within the four weeks for a reason connected with the new job, the employee will preserve the right to a redundancy payment under the old contract. If the dismissal is due to a reason unconnected with the redundancy, the employee may lose that entitlement.

14 Protection

- 14.1 Employees redeployed to a post at a lower band than the individual's current substantive post, will be afforded a measure of protected remuneration except in situations when the employee places themselves 'at risk' (See definition in Appendix B).

15 Notice of Redundancy

- 15.1 A reasonable length of time to find suitable alternative employment will be agreed. This will be up to a period equivalent to the employee's contractual notice period and will be agreed with the individual. If no suitable alternative employment has been found to redeploy an individual into and the redeployee is facing redundancy, notice of redundancy will be issued in line with their contract of employment. This will identify a date at which employment with the PCT will cease therefore the effective date of termination. The PCT will continue to support the individual in their search for suitable alternative employment during their notice period.

16 Assistance for Employees under Notice of Redundancy

- 16.1. Staff under notice of redundancy will be offered support as follows:

16.2 Time Off to Look for Work

- 16.2.1 The PCT will grant employees under notice of redundancy reasonable paid time off to look for new employment or make arrangements for training. This must be balanced with the need to ensure the quality and safety of services are not disrupted and organisational needs are met.

16.3 Assistance in Finding Alternative Employment

- 16.3.1 The PCT will endeavour to support those employees under notice of redundancy by assisting employees with liaising with the Job Centre or employment service, contacting other local NHS employers (which may be through clearing house arrangements) and passing on details of any vacancies (which may be via the intranet). The HR team will signpost staff under notice of redundancy to appropriate services for additional assistance, guidance and support as appropriate.

16.4 Redundancy Support

- 16.4.1 Access to counselling and careers support will include:-

- Help with future career plans
- Help with seeking new employment such as CV writing skills and interview skills
- Information on redundancy compensation
- Support with identifying training and development needs
- Assistance in preparing for change

17 Appeals and Grievance Procedure

- 17.1 If an employee feels aggrieved about the way in which this procedure has been implemented the employee should lodge a grievance with their manager as per the PCT's Grievance Procedure.

18 Monitoring Compliance with and Effectiveness of this Policy and Procedure

- 18.1 Monitoring compliance with this Policy and Procedure will be the responsibility of the Director of Human Resources. This will be undertaken by reviewing management of redeployment processes as they are undertaken. Where non-compliance is identified, support and advice will be provided to improve practice and the situation rectified with immediate effect.

19 Associated Documentation

- 19.1 The following NHS Hull Policies are related to this Policy and Procedure and are available on the NHS Hull Intranet:

- Organisational Change Policy
- Capability Procedure
- Managing Sickness Absence Policy and Procedure
- Retirement Policy and Procedure
- Grievance Procedure
- Excess Travel Policy

- 19.2 The ACAS Redundancy Handling Booklet was also referred to in reviewing this policy. It is available on www.acas.org.uk

20 Review

- 20.1 This Policy and Procedure will be reviewed in partnership with the recognised trade union partners in 2 years from the date of implementation.

Appendix A

REDUNDANCY

The PCT will, as far as possible, seek to minimise the need to make its staff redundant. However, there may be situations in which redundancy cannot be avoided. In these circumstances the PCT will ensure a fair and consistent process in line with all relevant statutory legislation and NHS National Terms and Conditions.

Definition

A redundancy situation arises where it is established that there is no longer a requirement for the work that the employee carries out and where a search for suitable alternative employment within the wider organisation has been exhausted and proved unsuccessful.

Calculation

Details of the calculation used for redundancy payments can be found on NHS Employers/ NHS Pensions agency website or through the Payroll Department.

Consultation

Under Section 188(1) of the TULR (c) Act the PCT has a duty to consult with all staff who may be redundant where 20 or more employees are affected within a 90 day period. Consultation must take place when the proposals are still at a formative stage; employees must be given adequate information and time on which to respond. The PCT must give conscientious consideration to the employee's response to that information. The commencement of consultation will be clearly set out in writing to individuals concerned.

Formal Consultation with Trade Union Representatives

The process for formal consultation will be established by the Director of HR and will consist of recognised Trade Union Partners (this may include Regional Officers), managers and Human Resources representatives. It will normally involve establishing a specific, time limited partnership meeting to address the matter. Terms of reference and frequency of meetings will be determined at the outset and according to need.

Criteria for Selection

In certain cases of redundancy, selection will not be relevant, as in such circumstances where either one employee only or an entire group of employees are identified as redundant.

Where there is scope for selection and if appropriate, volunteers for redeployment or redundancy may be sought first from amongst the group of employees identified as at risk of redundancy. The PCT reserves the right to refuse a request by any employee for voluntary redundancy. Such a request will not however be

unreasonably refused, and refusal will normally be for reasons related to the needs of the service. The individual will be notified of this. Where more than the required number of volunteers emerge, a selection process will be agreed with Trade Union Partners in relation to the volunteers.

The criteria for selecting employees for redundancy will be agreed with the appropriate Trade Union Partners. When considering potential redundancies, the PCT is keen to ensure that its selection should achieve the required aims in a structured, objective way ensuring the PCT retains an appropriately skilled workforce for the needs of the service(s), ensures that it manages its resources in the most efficient way taking into account the costs of achieving change. When deciding selection for redundancy the PCT will take into consideration a number of criteria including:

- Relevant skills and qualifications
- Eligibility for employment
- Ability to undertake the duties and responsibilities of the posts which are retained
- Band
- Length of service

This is not an exhaustive list.

Measures to Avoid Redundancy

The PCT will, wherever possible, consider all reasonable steps to minimise the effects of redundancy, including: -

- Vacancy management processes
- Natural wastage
- Seeking applicants for early retirement or voluntary redundancy taking into account staffing requirements for the continuing needs of the PCT
- Consider redeployment of affected staff to other vacancies within the PCT appropriate to their training, qualifications and experience
- Maximising opportunities for retraining and redeployment to other jobs
- This could include temporary redeployment to short term posts or to help provide temporary cover by agreement with the individual support from HR will also be offered on request
- The reduction of overtime and temporary posts in order to prevent or reduce the likelihood of redundancy
- Short-term working to cover temporary fluctuations

Eligibility for Redundancy Payments

PCT employees will be eligible for redundancy payments in accordance with their terms and conditions of employment.

Employees shall not be entitled to a redundancy payment if they:-

- Are dismissed for reasons of misconduct, with or without notice.
- Have at the date of termination of the contract, obtained without a break, or a break not exceeding 4 weeks, suitable alternative employment with the PCT or another NHS organisation.
- Unreasonably refuse to accept or apply for suitable alternative employment with the PCT or another local NHS organisation.
- Unreasonable refusal to adhere to local, regional and national requirements (e.g. any clearing house arrangements)
- Leave their employment before expiry of notice, except where the PCT has agreed an early release.

Appendix B

PROTECTION ARRANGEMENTS

Criteria

Protection is applicable to staff where suitable alternative employment is offered which is less favourable in its pay scale.

Period of Protection

The period of protectionable pay is 18 months at full protection. This will take effect from the date the change occurs. If it is agreed that at the end of the period of protection the redeployee will be paid at the top of their new band, their new manager must complete a vary form at that stage to inform the Payroll Department of this. Failure to do this may result in the redeployee being paid at a lower level within their new band once their protection ceases. The redeployee is encouraged to seek clarity in relation to any impact acceptance of a lower level post may have on their pension via the Payroll Department.

Calculation of Protection

Protection of pay is calculated in the following way:-

The four month period prior to the date of change is averaged, to give the monthly protectable earnings (gross cash sum). If during this period there is a pay award these calculations will be adjusted in the protectable earnings to reflect current rate of pay.

e.g. date of implementation of change is 1 June

Four month period (February, March, April and May) Pay award 1 April

February and March £1,000 per month = £2,000

April and May £1,100 per month = £2,200

Total = £4,200

Average per month = £1,050

However, adjusted to £1,100

Where a period of sickness occurs within the 4 months, the calculation period will be extended equal to the number of day's sickness absence.

Earnings included for protection calculation

Contractual earnings include:

- Basic Pay
- Contractual Overtime
- Allowances (i.e. enhancements, Sat/Sun nights, lead payments, on calls).

Exclusions include:

- Travel
- Additional Non Contractual Hours

- Occasional additional shifts

During the whole of this 18 month period, if any of the components of the Protectable Earnings are increased by a Pay Award, then those components will also be increased.