

ORGANISATIONAL CHANGE POLICY

SUMMARY	This Policy provides a framework to consider the individual interests of employees with care, consideration and equity during any organisational change. A fair and equitable process will be followed which will be adapted depending on the circumstances of the change to suit the needs of the organisation.
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VERSION	3
EFFECTIVE DATE	24-11-14
APPLIES TO	All employees
APPROVAL BODY	NHS RCCG Governing Body
RELATED DOCUMENTS	Pay Protection Policy
REVIEW DATE	October 2017

VERSION CONTROL SHEET

Version	Date	Author	Status	Comment
1	21-10-14	P Smith	Draft1	To OE
2	3-11-14	P Smith	Draft 2	For staff circulation
3	24-11-14	P Smith	Draft 3	To AQUA

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1. PURPOSE

- 1.1 Change is inevitable in any organisation as services are developed that meet the needs of the population and improve efficiency. Careful planning in the adoption of new working practices and the redesign of services is the best way to provide security of employment to employees. The organisation will strive to cope with fluctuations in required staffing levels by robust workforce planning.
- 1.2 It is recognised that any reconfiguration/change process may cause concern to employees. Consideration has therefore been given in this policy to develop a framework to consider the individual interests of employees with care, consideration and equity. During any organisational change a fair and equitable process will be followed which will be adapted depending on the circumstances of the change to suit the needs of the organisation.

2. SCOPE

- 2.1 This policy will apply to all employees directly employed by the organisation in substantive roles. Employees on fixed term contracts will be included if the fixed term contract is still in operation and they are not back-filling a role otherwise occupied by a permanent employee. In this case they will be taken through the transition process on the basis that this is their substantive post under the fixed term contract. Fixed term employees do not have a right to be given a permanent contract by virtue of the change process taking place. Each case will be dealt with in accordance with the particular circumstances of the post.

3. EQUALITY STATEMENT

- 3.1 In applying this policy, the organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership. A single Equality Impact Assessment is used for all policies and procedures.

4. ACCOUNTABILITY

- 4.1 The Chief Officer is accountable for this policy.

5. IMPLEMENTATION AND MONITORING

- 5.1 The NHS Rotherham CCG Governing Body is responsible for formal approval and monitoring compliance with this policy. Following ratification the policy will be disseminated to staff via the intranet.
- 5.2 The policy and procedure will be reviewed periodically by the Operational Executive in conjunction with Human Resource and Trade Union representatives where applicable. Where review is necessary due to legislative change, this will happen immediately.

6. RESPONSIBILITIES

6.1 Good working relations are vital for the organisation to operate successfully and provide services. There is a joint responsibility for management, trade unions and employees to accept the responsibility of working together on issues in good faith and with the shared intention of facilitating good working relations.

6.2 Employees

- 6.2.1 It is the responsibility of employees to ensure that they:
- Actively participate in all forms of communication to ensure they are fully engaged and informed of proposed changes.
 - Attend related meetings.
 - Speak to their line manager or HR representative regarding any personal concerns.
 - Ensure business as usual before, during and after changes.

6.3 Line Managers

- 6.3.1 It is the responsibility of line managers to ensure that they:
- Inform and engage their team regarding proposed changes, including employees who are absent from the organisation (i.e. on maternity, long term sick leave, secondments).
 - Work in line with the policy and procedure treating all employees fairly and equitably.
 - Provide support to employees and maintain confidentiality at all times recognising the sensitive nature of change for individuals.

6.4 Human Resources

6.4.1 The Human Resource Business Partner will provide advice and support on all aspects of this Policy to ensure application and support.

7. PRINCIPLES

7.1 The organisation is committed to employee development and promoting security, continuity and stability of employment for employees as far as possible. All reasonable steps will be taken to retain the skills and experience of employees by appropriate retraining, developing or redeploying employees wherever possible when change has become necessary. Where these options are not viable and workforce reductions are necessary, compulsory redundancy may be considered.

7.2 The objectives of any reconfiguration process are as follows:

- To create an organisation with the right numbers of people with the right skills to deliver the business of the organisation as effectively and efficiently as possible, ensuring it is fit for purpose.
- To achieve a balanced workforce that meets the needs of the organisation and delivers on the organisation's objectives.
- Fill posts with the most suitably qualified and experienced people.
- Minimise redundancy and retain valuable skills.
- Maintain services.
- Avoid unnecessary costs.

- Act lawfully and engage in meaningful consultation.

7.3 The organisation will always try to avoid redundancies by considering:

- Not filling vacancies to enable natural wastage.
- Reduction/elimination of overtime working.
- Termination of temporary or agency staff.
- Redeploying existing employees where ever possible.
- Retraining at risk employees so that they can be redeployed as appropriate.
- Limited applications for voluntary redundancy.

7.4 Organisational change may be triggered by internal or external drivers. The list below provides an example of when this policy may apply (this list is not exhaustive):

- National and local policy impacting on organisational form and structure
- Departmental restructuring/reorganisation and developing the organisation to ensure it is performing effectively.
- Transfer of a service in or out of the organisation
- Changes to commissioning and contracting
- Cross organisational moves (such as to the Local Authority)
- Changes which affect terms and conditions of employment
- Workforce modernisation and large changes to current processes of work
- To develop the organisation and ensure it is performing effectively

Please see Appendix A for definitions connected to organisational change.

8. CONSULTATION

8.1 There is a legal obligation to inform and consult the Trade Union and Staff Side Representatives of the employees whom it is proposed to make redundant, and to consult the individuals affected. The duty to inform and consult appropriate representatives depends on the number of employees it is proposed to make redundant. If 100 or more redundancies are proposed consultation must begin at least 45 days before the first dismissal takes place. If more than 20 but fewer than 100 redundancies are proposed consultation must begin at least 30 days before the first dismissal takes effect. If fewer than 20 redundancies are proposed the organisation will inform and consult individual employees as appropriate.

8.2 Effective consultation is likely to improve the quality of management decisions, increase commitment and co-operation from employees and contribute to good employee relations. There are a number of mechanisms which can be adopted for meaningful consultation. However, employees who are affected by change and potentially at risk of redundancy will be notified of this, together with details of the steps that will be taken to avoid redundancy, at the earliest opportunity. The purpose of consulting with appropriate representatives is to try to:

- communicate the reasons for the redundancies
- reach agreement on ways to avoid the redundancies
- reduce the numbers to be made redundant
- minimise the consequences of the redundancies
- agree selection criteria for redundancy

8.3 Consultation must begin at the earliest possible opportunity. When it is clear that any organisational change or other development may result in some employees being

declared redundant (even though the identity of the individuals affected may not be known at the time the decision was taken) details of the proposal will be shared from the moment that the decision is reached even though it may not be finalised. This gives employees the opportunity to influence the decision making process. Consultation may vary depending on what is deemed reasonable and proportionate to the change.

- 8.4 Consultation will normally be conducted through the relevant Trade Union or staff representatives. Consultation can take place locally within the relevant operational area but will be over the timescales dictated by the total number of redundancies that take place across the organisation, if applicable. Information relevant to the scale of change will be provided to representatives. Affected individuals will also be consulted and advised at this stage they are “affected by change” based on current proposals. If appropriate a communication plan will be developed to regularly feedback on comments received as part of the consultation. Upon completion of the consultation deadline a final document will be published outlining any further changes, providing a response to comments which were considered and final details of staffing implications if appropriate to the circumstances.

9. FILLING POSTS

- 9.1 It is recognised that each organisational change process may differ slightly depending on the circumstances, Appendix B outlines the stages which should be used as a guideline to manage employees affected by change fairly and consistently. A selection process will be determined in partnership with staff side where appropriate.
- 9.2 Employees who are absent from work, such as those on maternity or long term sick leave will be included in the procedure. Employees currently on a secondment or in an acting up role, will have their substantive role used for the purpose of consultation and procedure for filling posts.
- 9.3 On completion of the procedure for filling posts employees will be notified of the outcome and their right to appeal regarding the slotting in/ring fencing decision within 10 working days of receipt of the outcome letter.

10. REDEPLOYMENT

- 10.1 Employees displaced as part of a change who have not been appointed into a post will then be informed they are at risk of redundancy and the HR Business Partner will place the employee on the ‘at risk’ register maintained by HR. It is the responsibility of the Lead Manager to notify individuals of this and to invite the individuals to an initial meeting with their line manager and the HR Business Partner to discuss their personal circumstances and the process for suitable alternative employment and redeployment. All reasonable steps will be taken at this stage to avoid redundancies in order to ensure that business critical skills and experience are not lost.
- 10.2 The at risk register will contain information on the employees preferences for redeployment in addition to basic personal information. Employees on the at risk register will be advised of suitable posts in the organisation and where appropriate posts will be advertised on a restricted basis to employees on the register only. Many employees may require help to make the change. Local programmes of support will be developed and resourced to meet, as appropriate, the personal and professional needs of employees. Individual counselling will be made available on a confidential basis to help employees to cope with the implications of change. Appropriate career

counselling and support, including CV training, interview and self-marketing skills, will be available, if necessary, to all affected employees during the period of change.

10.3 Suitable Alternative Employment

10.3.1 Suitable Alternative Employment will be defined in terms of pay, working hours, status, grade, the way work is carried out and location. The individual(s) personal circumstances will be taken into account as will the pay protection and excess travel policy relevant to their terms and conditions. Some flexibility is expected on the part of both the employee and the organisation in this respect and it is important that each case is looked at on its own merits.

10.3.2 If an employee unreasonably rejects an offer of suitable alternative employment and there is no other alternative employment, or any reasonable prospect of alternative employment in the near future, the employee will jeopardise their entitlement to redundancy compensation or pay protection. This will then be classed as a resignation. The employee has the right to appeal against the suitable alternative employment decision within 10 working days of receipt of the outcome letter.

10.4 Trial Periods

10.4.1 A trial period is required if an offer of suitable alternative employment is made to an employee. The trial period is for a period of 4 weeks. If, during the trial period, the employee reasonably decides to reject the post or Management feel that they are unsuitable for the post, he/she will not forfeit his/her right to redundancy. If an employee who would otherwise be declared redundant wishes a trial period in a post that would not be regarded as suitable alternative employment, the employee would not forfeit his/her redundancy payment if he/she terminated the contract during the trial period for whatever reason.

11. REDUNDANCY AND EARLY RETIREMENT

11.1 Whilst the organisation is committed to avoiding compulsory redundancies as far as possible, this may become necessary in certain circumstances. Every effort will be made to help the employee secure suitable alternative employment, with additional support provided where appropriate. In some cases of organisational change it may be appropriate to consider the use of voluntary redundancy and early retirement schemes for defined categories of employees. In such cases, full consultation will take place and there will be strict criteria for those being eligible to apply. Application for voluntary redundancy does not guarantee that it will be granted, even when expressions of interest have been invited.

11.2 Redundancy payments

11.2.1 Any person who faces the possibility of redundancy will be made aware of payments to which they would be entitled in this event subject to current legislation. Redundancy payments will be made in accordance with contractual entitlements. Further details are included in Section 16 of the NHS Terms and Conditions of Employment, http://www.nhsemployers.org/~media/Employers/Documents/Pay%20and%20reward/AfC_tc_of_service_handbook_fb.pdf . Employees shall not be entitled to redundancy payments or early retirement on grounds of redundancy if:

- They are dismissed for reasons of misconduct

- If suitable alternative NHS employment has been secured at the date of the termination, and without a break exceeding 4 weeks
- If suitable alternative NHS employment has been secured and the employee unreasonably refuses to accept it
- If the employee leaves before the expiry of their notice, except if they are being released early
- If their contract is renewed

11.3 Notice Period

11.3.1 Where compulsory redundancies remain unavoidable, having exhausted all measures in this policy, the employees affected will be interviewed and will be given the maximum possible notice of dismissal. As a minimum, the notice period will be:

- the contractual notice as detailed in their statement of main particulars of employment; or
- one week's notice for each year of reckonable continuous service up to a maximum of 12 weeks. Individuals will receive the most beneficial notice period under the above options.

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

- given reasonable paid time off work to look for new employment and/or make arrangements for training to assist them to find new employment.
- given advice and guidance on job searching and applying for jobs
- offered counselling and support where necessary

11.3.2 Priority must be given to business continuity; therefore displaced staff will be required to work their contractual notice period in all but exceptional circumstances. Cases which are considered to be an exception can be agreed only by the relevant OE Member. Where displaced employees obtain alternative employment during their period of notice and wish to commence this employment prior to the end of their period of notice of redundancy, managers should consider releasing the employee on a mutually agreeable date.

11.4 Early Retirement on the Grounds of Redundancy

11.4.1 Employees retiring prematurely on the grounds of redundancy may be entitled to early retirement benefits dependent upon their age and length of service. Further details can be obtained from the Pensions Officer, matthew.ashton@sth.nhs.uk 01142714407.

12. TRANSFER OF EMPLOYEES

12.1 The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) protects employees' terms and conditions of employment when work is transferred from one employer to another. The Cabinet Office Statement of Practice (COSOP) allows for transfers on a TUPE like basis where there is no statutory entitlement to TUPE. Advice should be taken from a HR Business Partner in line with current legislation if a potential transfer is identified.

13. APPEALS

- 13.1 Employees have the right to appeal with regards to changes impacting their terms and conditions of employment. Any such appeal must be lodged by the employee, within 10 days of receipt of the outcome letter (i.e. confirming slotting in, ring fencing, suitable alternative employment etc). All appeals should be addressed to the Human Resources Business partner. Appeals will be formally considered by an appropriately constituted panel not previously involved in their case. The employee must stipulate their full grounds of appeal in writing. The outcome of this appeal will be final. Employees can lodge a grievance via the Grievance Policy if they believe the process has not been applied correctly. Except in exceptional circumstances the appeal will be conducted within 10 working days of the notification of appeal being received.

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DEFINITIONS

Reorganisation and Redundancy

Redundancy may occur as a result of a reorganisation. For the purposes of the Employment Rights Act 1996 an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to:

- a) the fact that his employer has ceased or intends to cease:
 - i. to carry on the business for the purposes of which the employee was employed by him, or
 - ii. to carry on that business in the place where the employee was so employed, or
- b) the fact that the requirements of that business:
 - i. for employees to carry out work of a particular kind, or
 - ii. for employees to carry out work of a particular kind in the place where the employee was employed by the employer, have ceased or diminished or are expected to cease or diminish.

Affected by Change: Where it is known that an organisational change is likely to result in employees being put at risk of redundancy. There may be a reasonable time period between employees being *affected by change* and being formally declared as at risk of redundancy, to ensure appropriate consultation takes place and to allow for stage one and two of the procedure for filling posts to be completed.

At Risk of Redundancy: Where formal consultation has taken place, feedback received has been considered and a final way forward determined. The outcome confirms the removal of their substantive post from the structure and the employee is deemed *at risk of redundancy* if there are no slotting or ring fencing options immediately available.

Employees are Transferred out of the Organisation: Where a service transfers to a new organisation, or into the organisation, employees in that service may transfer to the new organisation under a transfer order or the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) where TUPE applies.

PROCEDURE FOR FILLING POSTS

Stage 1: Slotting in

Slotting in may apply where the duties and accountabilities of a post are not significantly reorganised and are substantially the same in the new and existing role, and this is the same pay band/grade. There must be only one person in the organisation who can claim they should be slotted in to the role for this to apply.

Depending upon the scale of the change, slotting in may be on a provisional basis in the first instance and subject to formal confirmation as soon as possible thereafter. The purpose of this will be to ensure safeguards are built into the process which facilitates the application of a fair approach. Employees will be notified of the outcome, including any right of appeal.

Stage 2: Ring Fenced Competition

Where there is more than one potential match for a post based on the criteria in Stage 1 (slotting in), the employees will be ring fenced and interviewed to decide who is slotted into the role.

Any posts which have not been filled at stage 1 will be ring fenced for eligible employees to apply for. This will be a closed round of competitive interviews for employees “affected by change” currently doing similar work at a similar level who meet the minimum criteria for the post. In some circumstances the posts in the new structure may be at a higher grade. Eligible employees will be considered for an interview if they meet the essential qualifications, competence or requirements of the higher banded post(s). If the interview panel decide they meet the essential criteria or could do so within a 3 month period supported by a short term development plan they will be slotted into the post.

Where there is only one employee for one post but the grade of the post is higher this is also ring fenced competition as there will be a need for an interview process to ensure the individual has the necessary skills to undertake the role. If the interview panel decide they meet the essential criteria or could do so within a 3 month period supported by a short term development plan they will be slotted into the post.

Stage 3: Open Competition

If no one from stage one or two is appointable, wider advertisement of the post will apply. Should there be national or regional guidance guiding the change (i.e. it is part of a national programme of organisational change rather than local) the initial period of open competition may include considering staff from other NHS organisations who are on an identified and agreed ‘at risk’ register. Likewise should the organisation enter into local reciprocal agreements to retain NHS employees then the agreed process will be followed to allow for priority of other “at risk” staff in different NHS organisation. If there are no candidates on the ‘at risk’ register and this stage has been exhausted, then the post can be advertised in the normal way.