

Worcestershire Acute Hospitals NHS Trust Management of Organisational Change Policy

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What this Policy Covers

Purpose of the document

Organisational change refers to any change that may have an impact on individuals (or groups) with regards to their terms and conditions of employment or where changes are likely to result in workforce reduction

This Policy provides a framework to enable organisational change to be managed in a systematic and fair manner, minimising the risk of redundancy and balancing the needs of employees and the organisation.

The Trust will seek to introduce and effect change by agreement and to establish a climate within the organisation of partnership working, where staff at all levels and their union representatives are able to propose and/or influence change and to fully participate in its process.

The Trust will enter into detailed discussions with staff affected by change to enable them to be involved and engaged in the proposed change process at the earliest opportunity. Formal consultation with recognised Trade Unions will be undertaken in line with the legislative requirements before the implementation of any organisational change. Consultation is designed to engage with affected employees so they can have input into the decision making process. Consultation should be with the aim of reaching a joint agreement. The ultimate responsibility, however, for the management of change rests with the Trust.

Introduction

Worcestershire Acute Hospitals NHS Trust recognises that the workplace is a constantly evolving place where continuous changes including new initiatives and developments are embraced for the benefit of all to ensure maximum quality, efficiency and results.

The Trust will seek to introduce and effect change by agreement and to establish a culture within the organisation of partnership working, where staff at all levels and their trade union representatives are able to propose and/or influence change and to fully participate in its process.

Organisational change will be managed in a manner that ensures minimal disruption to service delivery.

Where staff are put on pay protection the aim will be for their manager to review regularly and support them to obtain a post at their original grade where possible.

Scope of the Policy

This policy applies to all staff and establishes a consistent and fair approach to managing organisational change. The Trust is committed to creating as secure an employment environment as possible by means of effective service and staff planning. It is recognised that any change within the organisation can cause concern for those staff affected and it is the Trust's intention to consider their individual needs with care and consideration.

Definitions of Organisational Change

Organisational change refers to any change that may have an impact on individuals (or groups) with regards to their terms and conditions of employment or where changes are likely to result in workforce reduction (redeployment or redundancy). This requires both informal discussions with staff/recognised Trade Unions at the earliest opportunity and a formal consultation in line with statutory requirements and Trust policy.

Possible examples of organisational change (this is not an exhaustive list) could be:

- Restructure in a department resulting in an impact on the nature of staff responsibilities and/or banding/pay.
- Changes to working hours e.g. traditional 9-5 to evening/weekend working
- Changes that would involve downgrading to a lower banded post
- Cessation of the provision of an activity
- Closure or transfer of a department or ward to a different site or organisation

Other Definitions

Redundancy – the ending of an individual's employment wholly or mainly as a result of one of two factors:

- That the Trust has ceased or intends to cease carrying on the business or providing the service in which the individual was employed; or has ceased or intends to cease carrying on that business or providing that service in the place where the individual was employed; or
- That the requirements of the Trust for an individual to carry out work of a particular kind, or in the place where the individual was employed has ceased or diminished or are expected to cease or diminish.

TUPE – Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 protects an individual's employment status and terms and conditions of employment on transfer to a new employer.

Staff at Risk of Redundancy - Any member of staff, whose post, as a result of the proposed organisational change is determined to be at risk of redundancy

Mutually Accepted Resignation Scheme (MARS)

This is not a redundancy or voluntary redundancy but a form of voluntary severance which has been developed nationally with the aim of increasing the flexibility to address periods of change and service redesign

Short-term pay protection – Relates to payments which form a regular or contractual part of a member of staff's job including hours of work

Long-term pay protection – Long-term protection of basic wage or salary used where downgrading to a lower band post is involved.

Downgrading – Occurs when the post is on a lower band than the previous post.

Protectable earnings – The monthly sum due in respect of basic hours worked by a member of staff, within the standard working week. This is based on an average calculated over a 12 week period immediately preceding the first day of appointment in a new post.

Basic wage or salary – Is the monthly sum due in respect of basic hours worked by a member of staff, within the standard working week.

Reckonable Service – for the purposes of an NHS redundancy payment, means continuous full-time or part-time employment with the present or any previous NHS employer but with the following additions:

- Where there has been a break in service of 12 months or less, the period of employment prior to the break will count as reckonable service.
- Periods of employment as a trainee with a general medical practitioner, in accordance with the provisions of the Trainee Practitioner Scheme, will count as reckonable service.

The following employment will not count as reckonable service:

- Employment that has been taken into account for the purposes of a previous redundancy, MARS, or loss of office payment by an NHS employer.
- Where the employee has previously been given pension benefits, any employment that has been considered for this purpose.

Continuous Service with the Trust – for the purposes of pay protection this means the length of continuous service with this organisation without a break of more than 1 week.

Mark Time – means an employee will be entitled to retain their salary at the rate they were on at the time protection comes into effect or until such time as their new salary exceeds the protection. During the protection period there will be no entitlement to increments or pay awards.

Redeployment Register

This is a protected area on NHS Jobs which enables affected staff to be considered for suitable vacancies before the post is advertised internally or externally. The register will be regularly reviewed by Human Resources Advisers.

Responsibilities

Worcestershire Acute Hospitals NHS Trust recognises its contractual responsibilities in relation to all aspects of managing organisational change and its responsibilities to consult with its workforce and their unions within agreed and appropriate frameworks.

Overall responsibility for this Policy rests with the Trust Board. Operational responsibilities are delegated as follows:

Executive Directors

The lead Executive Director for this Policy will be the Director of People and Culture. In addition, all Executive Directors will be responsible for ensuring that:

- All employees are informed of the terms of the policy and the procedures that apply to them
- The policy is implemented and operated effectively within their department.
- Managerial action is fair, equitable and reasonable in all circumstance(s) and is monitored effectively.
- Managers receive appropriate training or advice deemed necessary to discharge their responsibilities under this policy appropriately.

Managers

Managers carry responsibility for:

- Developing and producing the business case for change and preparing a consultation document explaining the rationale and detail for the proposed changes, the process that will be followed and timescales. These should include costings, savings and where funding will be diverted to.
- Developing any new job descriptions as part of the consultation process.
- Effectively and fairly implementing and operating this policy and associated procedures and guidelines within their department, including those on maternity leave, career breaks, secondments and long term sickness at an early stage.
- Timely and effective communication and engagement with staff and recognised trade unions
- Ensuring that recognised trade union representatives have reasonable release for the consultation process
- Implementing changes, with due consultation in a fair and consistent manner.
- Meeting with affected staff regularly to offer support, advice and guidance to staff affected by change
- Reviewing vacancies within their Directorate and the Trust

Human Resources Department

The Human Resources Department will:

- Provide information and guidance regarding the interpretation and application of this policy and associated procedures and guidelines
- Provide appropriate support and guidance to managers when planning for, implementing and managing service developments that will result in organisational change
- Monitoring and reviewing organisational change outcomes to ensure processes are applied fairly and effectively
- Maintain a Redeployment Register of those staff who have been declared at risk of redundancy to ensure that relevant posts are ringfenced to them in the first instance
- To undertake in partnership with JNCC representatives a quarterly review of pay protection

Recognised Trade Union representatives

- Timely and effective communication and engagement with managers, HR representatives and employees
- Advising and supporting members and managers on application of the policy
- Monitoring and reviewing organisational change in partnership with HR and managers to ensure that processes are applied fairly and transparently.
- To undertake in partnership with HR a quarterly review of pay protection via JNCC

Employees

- Working with managers to ensure the impact on any organisational change programme is minimised, by being involved and engaged in the process by:
- Proactively looking at the restricted access section of NHS jobs when they are on the redeployment register.
- Applying for suitable alternative posts
- Not unreasonably refusing suitable alternative employment
- Keeping their manager updated with developments or changes such as job offers, requests for time off for interviews etc.

Payroll Department

- Providing timely and accurate information when requested relating to redundancy/pensions calculations.
- Producing pay protection calculations to individuals on request, or managers

Equality requirements

An Equality Impact Assessment has been undertaken in accordance with Trust policy and is attached as Supporting Document 1.

Policy in Practice

Aims

- The aims of this policy are to outline how organisational change should be managed, the procedures for consultation, communication, engagement and staff development and support.
- It outlines the measures to be taken as far as possible, to maintain job security and to avoid redundancy, and details the redeployment processes and the procedure to be followed when redundancy is unavoidable.
- It aims to ensure a flexible and transparent approach is adopted when facing change and wherever possible to plan, prepare and minimise the impact of change by engaging early in open, honest, consistent and relevant, two way and frequent consultation with staff (and recognised Trade Unions and professional bodies whose members are affected by change).

Principles

- The Trust has a guiding principle of keeping the need for compulsory redundancies to a minimum. To ensure that all considerations have been made, any proposed redundancies will need the relevant Executive Director and the Director of People and Culture's approval.
- The Trust will ensure measures are in place to treat staff affected by organisational change fairly and equitably. The Trust is committed to ensuring all members of staff are always treated with sensitivity and that their confidentiality is maintained throughout.
- The Trust will seek to introduce and effect change by agreement and to establish a climate within the organisation of partnership working, where staff and their union representatives are able to propose and/or influence change and to fully participate in its process. The application of this policy needs to balance the requirements to achieve the necessary implementation of organisational change in compliance with employment legislation and good practice, whilst making every effort to minimise disruption to services and anxiety to staff, whilst retaining staff commitment.
- The Trust will engage in meaningful consultation and meet its statutory obligations to consult affected employees and other interested parties in open dialogue. This engagement will enable a range of views and concerns to be expressed and considered in order to inform decision- making and help build consensus.

Procedure for Managing Organisational Change

The principles of this policy will apply to all organisational change within the Trust, regardless of the scale of the change and numbers of staff affected.

Preparation and Planning

At the earliest opportunity and prior to the implementation of any organisational change programme, the Director of People and Culture (organisation wide change initiatives) or line manager (departmental change) should ensure that a [Change Proposal Discussion Document](#) for the proposed change has been developed and the implications for the workforce are identified and understood. The level of detail within the document will depend on the complexity of the change programme involved.

This document will then be used to begin the engagement and consultation process with recognised Trade Unions and affected staff. The process for this would be through a subgroup of the Joint Negotiating and Consultative Committee (JNCC) and then consultation with the JNCC.

Engagement and Consultation

The purpose of engagement is to involve staff affected by change and their representatives at the earliest opportunity and to explore all the options available. Consultation ensures all information relating to any changes are explored and debated, and views and suggestions are considered prior to the final decision being made.

Before commencing consultation, it is first necessary to determine whether the proposed change is such that there is a statutory obligation to consult collectively as this will have a bearing on the process and timescales that will need to be adhered to.

Communication is concerned with the exchange of information and ideas within an organisation. Consultation goes beyond this and involves managers actively taking account of the views of employees before making a decision. In consultation the employer informs their employees of workplace developments and asks, and takes account of their views before making a decision.

The period of statutory consultation will be determined on a case-by-case basis in line with the size and scope of the change process and the numbers affected by the change. The principle consideration being that the consultation period will allow enough time to ensure meaningful consultation can take place. In some instances, this statutory requirement will be up to 45 days in duration, but the period may be less if all parties agree. For changes affecting less than 20 employees there is no legal minimum period for consultation however there is still an expectation that managers will undertake a meaningful consultation process with affected staff.

The statutory periods are set out below.

Consultation Process with Affected Staff

The Trust is committed to working in partnership with recognised Trade Unions. The consultation process outlined below will be followed for change programmes that both require statutory collective consultation and those that are not governed by the statutory arrangements.

The purpose of the consultation with affected employees about any change to the organisation and their working lives is to allow employees the opportunity for the following:

- to question any plans and the reason for them
- To express their concerns and be assured these will be listened to by senior managers
- To be reassured about how the changes will affect them personally
- To enable managers to demonstrate clear direction and leadership
- An initial meeting will take place with the recognised Trade Unions to consult on the proposed changes and provide them with all the appropriate information using the Change Proposal Discussion Document.
- A meeting will be arranged with the affected staff concerned and their union/staff representatives as a group, or several smaller groups.
- Staff are entitled to have an individual 1:1 meeting. This is an individual choice. The purpose of this initial meeting with staff will be for the line manager to state the reasons why the change is occurring and to describe the intended benefits for the patients, staff, department or organisation and to provide honest and open feedback to enhance the success of the change programme.

- The purpose of the individual meetings (if required) will be for the line manager to consult on the proposed changes and to provide the opportunity for further discussion, support and advice; to explore the implications for individual employees, ascertain the employee's views and to consider their options and preferences for the future.
- Employees will be offered the opportunity to be accompanied at individual meetings by their trade union or a work colleague. It will be the employee's responsibility to arrange this support in a timely manner.
- Every effort must be made to ensure that the management of change programme is not unnecessarily held up due to delays in securing a trade union representative or a work colleague. This can be facilitated by managers working in partnership with unions thereby keeping union representatives fully informed of potential group meetings.
- All discussions during individual meetings will be documented and confirmed in writing within 5 working days to all relevant parties by the line manager.
- In addition to the Trust's commitment to commence consultation on proposed organisational changes at the earliest opportunity, the formal consultation period should be preceded by a period of communication/engagement.
- Managers should be prepared to adjust their proposal if they are presented with a suitable alternative recommendation which achieves the desired outcome by a different means.
- After the consultation period, the manager will consider the views submitted, and any suitable alternative options which may achieve the desired outcome by a different method and give feedback to staff/ their trade union representatives on whether it has been possible to amend the proposed changes or not. Managers should explain the business reasons why a view has been accepted or rejected.
- Any employee who has a grievance relating to the way the process has been handled, or any other aspect of management of change, can invoke the Trust's Grievance procedures.

Statutory Consultation

The Trust has a legal requirement to undertake collective consultation if it is proposing to dismiss as redundant 20 or more employees over a period of 45 days or less as set out below:

NUMBER OF POTENTIAL REDUNDANCIES	STATUTORY CONSULTATION PERIOD
Fewer than 20 employees	No legal requirement
20 – 99 staff	30 days before the first dismissal takes effect
100 or more staff affected	45 days before the first dismissal takes effect

For fewer than 20 employees, there is no statutory consultation period however this should not prevent managers from undertaking a consultation process with their staff in line with good practice which would normally be 30 days.

The consultation must take place with a view to reaching agreement with staff and their appropriate trade union representatives and must include discussion about ways of avoiding the redundancies, reducing the numbers to be dismissed and mitigating the consequences of any redundancies. Consultation should be completed before any redundancy notices are issued.

Consultation with the Trusts recognised trade unions and affected staff must precede any public announcement of any redundancy programme. The consultation will include ways of:

- Avoiding redundancy, i.e. considering other options
- Reducing the number of employees to be made redundant e.g. recruitment and vacancy management controls
- Mitigating the consequences of redundancy by providing help, support and advice to affected staff

The Trust is also required to disclose certain information to the appropriate representatives in writing. It must disclose:

- The reasons for the proposals
- The numbers and descriptions of employees it proposes to make redundant
- The total number of employees of that description who may be made redundant
- The proposed method of carrying out the redundancies, including the period over which they are to take effect
- The proposed method of calculating the amount of any redundancy payments, other than statutory redundancy pay, to be made to employees who are made redundant.

If the Trust is proposing to make 20 or more employees redundant it is obliged to notify the Secretary of State in writing of its proposal via an HR1 form [Redundancy payments: Form HR1 - advance notification of redundancies - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/forms/redundancy-payments-form-hr1-advance-notification-of-redundancies).

Identification of Posts and Staff at Risk of redundancy

When changes are proposed which lead to a reduction in the numbers of staff employed in particular departments or bands, the Trust in consultation with recognised Trade Unions will identify the positions or pool of staff at risk of redundancy.

The pool of staff 'at risk' will be determined by the consideration of factors such as whether any of the jobs are interchangeable, whether other groups are doing similar work etc.

Staff deemed to be 'at risk' of redundancy will be informed at an initial individual meeting with their line manager, and HR Representative and will be entitled to representation from their trade union, professional Association or workplace colleague to:

- Discuss why the changes are proposed, how the proposed changes affect the individual and the rationale for considering him/her 'at risk' of redundancy
- Explore any preferences a member of staff may have for redeployment
- Explore all the possible options open to them
- Explain the process and opportunities
- Explain possible protection of any terms and conditions of service

Staff identified 'at risk' of redundancy will be issued with a letter within 5 working days of the meeting which will confirm their 'at risk' status and reiterate the Trust's commitment to make every effort to help them to seek suitable alternative employment. Further meetings will be arranged as appropriate to assist in the redeployment process.

Individual Meeting with Staff Member

When seeking suitable alternative employment, the staff member will meet with their individual line manager and HR representative. The staff member can be accompanied by a trade union representative or work colleague. The purpose of the meeting is to discuss the staff member's:

- Current skills, training and experience
- Willingness/ability to increase/decrease hours and/or change shift patterns
- Willingness/ability to retrain
- Other areas they may like to work
- Career prospects
- Other relevant personal circumstances

The resulting information will be recorded on the staff preference form (**Appendix 3**) and should any suitable vacancies arise, the staff member will be informed and advised to submit an application. The staff member also has a responsibility to look at internal vacancy bulletins and NHS Jobs and inform their manager or Human Resources if he/she identifies a potential suitable role.

Being placed 'at risk' of redundancy does not mean that an individual will automatically be placed under notice of redundancy or that they will ultimately be made redundant. It does mean that the individual will have access to the restricted areas of the NHS Jobs recruitment site as well as the range of support measures the Trust will provide.

A record of staff 'at risk' of redundancy will be maintained by Human Resources in order to support the identification of redeployment opportunities as well as ensuring the individual 'at risk' is making every attempt to secure suitable alternative employment with the same or another NHS employer. Failure by the member of staff 'at risk' to do this could result in the loss of redundancy payments.

Procedure for avoiding compulsory redundancy

The Trust will seek to maintain the highest degree of employment security for all employees affected by organisational change and ensure compulsory redundancies are minimised and considered only as a last resort.

The following are examples of measures the Trust will put into place to try to achieve this:

- Workforce controls and efficiencies such as controls on overtime
- Restrictions on substantive recruitment by holding vacancies, and use of fixed term contracts
- Ring Fencing Arrangements
- Redeployment
- Suitable Alternative Employment
- Protection of Pay Arrangements
- Trial Periods
- Voluntary programmes

Workforce controls and efficiencies

To mitigate the potential need for redundancies the Trust will in the first instance look to control vacancies, particularly in the groups/pay bands of affected staff and will make these available to staff 'at risk' whose skills and experience is suitable (Please refer to the Redeployment Framework which is available on the Intranet.

Other areas for consideration would be the reduction or elimination of overtime and a review of fixed term and temporary contracts should be undertaken. Managers should seek advice from HR prior to taking a decision to terminate an individual's contract due to the need to consider the requirements of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and any potential implications of non-renewal.

The Trust may also consider voluntary requests from employees who may wish to reduce their hours of work or apply for flexible working arrangements, which would result in a reduction of hours and pay. The Trust will also review the use of agency, bank and locum and/or contractors.

Ring Fencing Arrangements

These arrangements will apply when a proposed change results in one or more of the following situations:

- The establishment of new posts arising from a revised or new service or
- The establishment of fewer posts arising from a revised or new service or
- Changes to existing departments or structures, including situations where a new organisational structure results in changes to existing or roles or
- Any combination of the above

Ring fencing arrangements will be used to appoint to posts in the revised or new service from the group of affected employees. Identification of posts and employees within the ring fence will be undertaken by comparing the current post(s)/job descriptions with the revised or new post(s) to determine the degree of job match between the individual and the post. The factors to be considered will be:

- Comparison of the roles and responsibilities
- Current and proposed banding/grades

Once the ring fence is determined, selection to the revised or new posts will take place using the following processes:

- Expressions of interest
- Automatic slotting in
- Competitive slotting in
- Open competition

Automatic slotting-in: e.g. appointment without selection will be used where the post in the revised or new service is substantially similar to the existing post and where there is no competition e.g. there is at least the same number of posts available to people affected. The decision will be based on a review of the requirements of the new and old posts, to assess

if they are fundamentally the same. The elements that will be reviewed will include: Staff who are on long term absence such as maternity leave, career break or sickness will be included in the ringfence.

- The key duties and responsibilities
- The percentage of time spent on duties/tasks
- The position within the structure
- The number and level of staff reporting into the new and old post
- The terms and conditions, including job banding

Individuals will still be required to meet the essential criteria contained in the job description and person specification.

Restricted/Ringfenced Competition: This will be used where the posts in the revised or new service are similar to existing posts and/or where there are fewer available posts than staff potentially affected by the change. The identifiable group will be 'ring fenced' so that only the staff potentially affected (at risk) are considered for the available posts. Staff who are on long term absence such as maternity leave, career break or sickness will be included in the ringfence.

Expressions of interest: Where new posts are established these will be restricted in the first instance to those directly affected by the change, who have not been the subject of automatic or competitive slotting in. Those affected will be asked to identify which of the posts available they would prefer to be considered for. A selection process will then take place. Staff who are on long term absence such as maternity leave, career break or sickness will be included in the ringfence.

Open competition: Posts in the revised or new structure which are not filled through ring fencing arrangements will then be recruited to by open competition, according to the Trust's normal recruitment process.

Redeployment

The Trust's Redeployment Framework provides the detailed process to be followed in all cases of redeployment, including redundancy.

The Trust has a legal obligation to seek to avoid redundancy by trying to identify suitable alternative employment for displaced staff. However, it is acknowledged and recognised that any re-deployment process cannot guarantee jobs or posts but provides for an effective way of managing individuals to match their relevant skills with the appropriate posts, thereby retaining staff.

Success in redeploying staff will depend upon all the circumstances including numbers and types of jobs involved and the personal circumstances of each individual.

Where an employee wishes to change to a new post within the Trust, which requires retraining, this will be encouraged wherever possible, but the following will need to be taken into account:

- The number of staff affected
- The job opportunities likely to become available
- Skills and knowledge required
- The individual's suitability for redeployment and retraining in relation to available job opportunities
- The individual's ability and willingness to retrain for the available job opportunities
- The extent to which retraining can be provided in light of service needs and demands

Retraining to seek new professional or occupational qualifications will be considered individually and the current skills, experience and wishes of the individual employee will be taken into account.

Reasonable paid time off work will be given to receive training which will assist an employee to secure suitable alternative employment. Assistance with appropriate training costs will be considered on an individual basis.

The Trust's agreed Redeployment Framework can be found on the Intranet.

Suitable Alternative Employment

In considering whether or not a post offers suitable alternative employment, reference will be made to the definition set out in **Section 16** of The Agenda for Change: NHS Terms and Conditions of Service Handbook.

The alternative employment offered may not be at the same band (one band lower would be considered as suitable alternative employment) or place but providing it is acceptable to the individual member of staff, the post will be suitable. A fixed term position may be suitable alternative to redundancy, but this would not affect employment rights.

The following factors may be taken into account when considering whether or not a post offers suitable alternative employment:

- Place of work
- Hours of work
- Time and cost of travelling
- Pay, band and protection of earnings
- Skill/tasks
- Qualifications
- Status
- Career prospects
- Personal circumstances

In considering whether a post is suitable alternative employment, regard should be had to the personal circumstances of the employee. Employees will, however, be expected to show some degree of flexibility.

For further details, please refer to the Trust's Redeployment Framework which can be found on the Intranet.

A staff member who unreasonably refuses suitable alternative employment will lose his/her right to redundancy pay. Where a member of staff fails or refuses to make an application for a suitable post, he/she will be deemed to have unreasonably refused suitable alternative employment.

Protection of Pay Arrangements

The Trust has determined the arrangements that will apply to safeguard the pay and conditions of service of staff with at least 12 months continuous service, who are affected by organisational change. Protection arrangements are designed to support successful organisational change in providing suitable alternatives to redundancy, which safeguard pay for a defined period to enable a period of adjustment. They will apply to any member of staff who, as a consequence of organisational change is required by the Trust to:

- Move to an alternative post where earnings are lower due to either a change of band affecting basic pay, or loss of enhanced payments, or both.
- Reduce the contracted hours while continuing in the existing post or new post.

There will be no entitlement to pay protection where the reduction of band or enhancement is related to:

1. An employee seeking at their own volition redeployment to a lower band or a different pattern of work.
2. A redundancy payment is made.
3. An acting up or temporary re-grading reaches an agreed end or finishes early.
4. The ability or competence of the member of staff to perform the duties of their existing band.
5. An employee is redeployed following ill health.

No payment will be given unless there is an actual reduction in total earnings calculated as an average of a 12 week period prior to the date of change.

Short-term protection of earnings is available where the detriment where working pattern changes result in loss of enhancements or supplements to basic pay, or a non-voluntary reduction in hours.

The following enhancements or supplements to basic pay will be taken into consideration in calculating short term protection where they reflect payment for duties which are a regular contractual requirement of the job:

- Reduced hours
- Unsocial hours enhancements
- Contractual overtime payments
- Contractual on call payments

Short-term protection of earnings is triggered when the total pay and allowances of the new post are less than the earnings in the old post based on a 12 week average prior to the date of change.

If the source of the pay protection is as a result of a requirement to reduce a member of staff's contractual hours of work, they may be asked with reasonable notice to continue to work the additional hours (if required) during the period of their pay protection.

Short-term protection of pay shall be applied on a mark time basis as outlined in the Pay Protection Table below.

Long-term protection of earnings is applicable when a member of staff is required to move to a new post and the new post is at a lower band (one band lower would be considered as suitable alternative employment) and attracts a lower basic annual salary. Protection will be at the member of staff's current basic pay or salary with no benefits of any further pay increments or annual pay awards until the new salary exceeds the level of protection or the protection period expires, whichever is the earlier. At that point the member of staff moves to the maximum point of the new scale for the job.

A member of staff with a right to long-term protection may also have a concurrent right to short-term protection if the criteria is met. However, the total earnings will not exceed the earnings prior to the change.

Long Term protection where downgrading occurs

Length of service with the Trust	Length of protection
Less than 12 months service	Nil
1 - 2 years' service	12 months protection
Over 2 years' service	2 years protection

Short term protection

The periods of protection that will apply from the date of the revised working pattern are:

Length of Service on Working Pattern*	Period of Protection
Less than 12 months service	Nil
1 – 5 years	6 Months protection
Over 5 years	12 months protection

**This service must include the continuous service within the Trust on the contracted working patterns that are being changed.*

Protection of both short term and long term earnings is conditional on an employee moving to, or applying for a suitable post within the Trust which is more in keeping with their protected conditions as and when such a suitable post becomes vacant.

Employees will assume the notice period of their new post immediately upon appointment. Notice periods associated with the previous position will not be protected.

Protection will cease if:

- The member of staff moves on their own application to another post at the same band as the protected band or lower.
- At any time the earnings of the new post is equal to or exceeds the protected earnings.

Protection of regular earnings is conditional on the member of staff continuing to undertake (with reasonable notice) any regular overtime, shift work, hours or other additional duties that were in place prior to the protection where they are relevant to the grade of the post. Pay protection will not be impacted by overtime i.e. a colleague may undertake overtime or additional hours (part time colleagues) and the amount they are paid in pay protection will not be impacted.

Where a staff member is already on previous protection and then is protected again under this policy their previous protected earnings will be used to calculate regular earnings.

The Trust will seek during the period of the protection, to find a suitable alternative job at a level commensurate with the protected grade. It is a condition of protection that a staff member does not unreasonably refuse such alternative employment.

The Trust will seek during the period of the protection to help and support the member of staff to seek and obtain a suitable alternative job at the level of the original pay grade. The member of staff can ask to be placed on the redeployment register during the period of protection for this purpose (please refer to the Redeployment Framework).

Pension: Members of the NHS Pension Scheme whose pensionable earnings are reduced by organisational change, may be entitled to protect their pensionable pay. Members of staff affected in this way are advised to seek advice from SBS Pensions on 0303 123 1144 and via the SBS Pensions website www.nhsbsa.nhs.uk/pensions.

Trial periods

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. Staff who have been identified as “at risk” of redundancy but have not been officially given notice will also be afforded this trial period. The trial period begins when the employee commences in the new post and ends four weeks after the date on which the employee starts work under the new contract.

Employees will be given the opportunity to spend up to 4 weeks in that new job as a trial period. After 4 weeks there will be a full review although if there are concerns by either party in advance of the end of the four-week period these should be raised at the earliest opportunity.

The review will take the form of a meeting with the individual and their representative and their line manager for the trial role. If the post is suitable the person will be offered the post. If the trial period is unsuccessful, the individual remain “at risk” pending further discussions about the way forward.

The purpose of the trial period is to give the employee and the manager a chance to decide whether the new job is suitable without affecting the right to a redundancy payment. This period allows both the member of staff to confirm that he/she wishes to accept the post, and the new manager to ensure that the staff member can meet the required standard. If the trial period is unsuccessful the review meeting and rationale will be documented by the manager and shared with the employee.

A trial period can be extended, for example for the purpose of retraining a member of staff, by means of a written agreement between the Trust and the member of staff. The agreement will specify the date on which the trial ends and sets out the terms and conditions after the trial period ends.

If the employee works beyond the end of the four week period, or the jointly agreed extended period, any redundancy entitlement will be forfeited because the employee will be deemed to have accepted the new employment. Managers should communicate this to the employee when the alternative job offer is made.

If the manager wishes to end the contract before the end of 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 redundancy e.g. dismissal for misconduct, the employee may lose that entitlement.

For further details, please refer to the Trust’s Redeployment Framework which can be found on the Trust’s Intranet.

Voluntary programmes

As an option to minimise the likelihood of compulsory redundancies, the following measures may also be considered but these would be at the sole discretion of the Trust and subject to the overall operational requirements of the service, including the level affordable by the Trust.

Voluntary early retirement

The earliest age you can apply for retirement will depend upon the Pension Scheme you belong to and when you commenced pensionable employment. Choosing to take early retirement will mean that your benefits are reduced on a sliding scale dependent upon the

scheme you are in and your age when you retire. The earliest age that any NHS Employee can gain access to their pension is 50, however in the 2008 pension scheme, the earliest age is 55. There may be some staff in the 1995 scheme who can take their pension benefits at 55 without reduction, this does not apply in all cases. Further details and information of this may be obtained by contacting SBS Pensions on 0303 123 1144 and via the Pensions website at www.nhsbsa.nhs.uk/pensions .

Voluntary redundancy

Where voluntary measures are considered, this will normally be identified as part of the consultation process, to confirm the eligible staff group, approval process and timescales.

In the first instance requests for expressions of interest in voluntary redundancy may, after consultation, be sought from either the staff affected by change or a wider group across the organisation, if the change is on a large scale, with a view to creating vacancies to facilitate staff transfers.

Mutually Accepted Resignation Scheme (MARS)

This is not a redundancy or voluntary redundancy but a form of voluntary severance which has been developed nationally with the aim of increasing the flexibility to address periods of change and service redesign.

MARS schemes support the Trust by creating job vacancies which can be filled by redeployment of staff from other jobs or as a suitable alternative job for those staff facing redundancy.

See section 20 of the NHS Agenda for Change & Terms & Conditions of Service Handbook for further details.

Compulsory Redundancy

Compulsory redundancy is the option of last resort and requires Director of People and Culture approval.

Where there are still staff 'at risk' following exploration of all of the measures to minimise the effects of organisational change, compulsory redundancy may be implemented.

Selection for Redundancy

Where compulsory redundancies are necessary the Trust will aim to handle these in the most fair, consistent and sympathetic manner possible.

The Trust will take steps to agree the pool of staff and the criteria for selections with recognised Trade Unions as part of the consultation process. The pool will include all those whose contracts include the work which is now diminishing.

Criteria for selecting employees for redundancy will be developed and may include the following:

- Qualifications: qualifications can be used for selection purposes if they are of value to

the organisation and are necessary for the function of the role. However, careful consideration should be taken when individuals, who although not holding formal qualifications, have attained the relevant skills and competencies for the role via experience.

- Knowledge, skills and experience: the approach is to identify the competencies required of the post as measured by the person specifications (or KSF) and to assess each individual against the requirements. Evidence may be gained from PDR's as well as from line manager assessment.
- Attendance/absence: consideration of attendance over a specified time period e.g. previous 3 years can be used for selection purposes. Care needs to be taken that this does not disadvantage certain groups of staff and therefore absences due to pregnancy or those related to an individual's disability should be excluded.

The selection procedures may be based on a points system. However, to ensure fairness, more than one person must determine the selection of individuals.

Formal Notice of Redundancy

Once formal consultation has taken place, which could range from anything from 30 days up to 45 days as set out above, formal notice of redundancy will be given to employees who have been notified that they are 'at risk' of redundancy and have failed at this stage to secure suitable alternative employment.

A meeting will be convened at which the employee will have the right to be accompanied and will be advised that they are being given formal notice at this time. The employee will be advised of the reasons for the redundancy, the length of their notice period, any redundancy pay entitlements and the further support and assistance which may be provided. In addition, employees will be given their right to appeal against the decision to make them redundant.

The amount of notice to be given will normally be in accordance with the individuals statutory notice period (subject to the statutory minimum of 1 week for each year of service with a minimum of 4 weeks and a maximum of 12 weeks.) However, this may be longer to take into account an agreed implementation date of the change.

Normally employees will be expected to work their notice period, however, where the individual requests otherwise the Trust shall, unless there are compelling service reasons to the contrary, release such employees at their request on a mutually agreed date. That date shall become the revised date of redundancy for the purpose of calculating any entitlement to a redundancy payment.

During this notice period, every effort will continue to be made by the Trust to secure suitable alternative employment and therefore avoid the need to dismiss on the grounds of redundancy and likewise the employee should continue to make all reasonable efforts to secure a suitable alternative role in order not to forfeit their entitlement to any redundancy payments.

Written confirmation will be sent to the employee within 5 working days of this meeting.

Entitlements to redundancy pay

Employees who have completed 2 years (104 weeks) reckonable service with the NHS will be entitled to a redundancy payment if they are dismissed on grounds of redundancy. Calculation of redundancy pay will be paid in

accordance with national terms and conditions (see **section 16** of the Agenda for Change: NHS Terms and Conditions Handbook).

The following employment will not count as reckonable service for redundancy as stated in Paragraph 16.6 of the Agenda for Change NHS Terms and Conditions Handbook

- employment that has been taken into account for the purposes of a previous redundancy, or loss of office payment by an NHS employer
- where the employee has previously been given NHS pension benefits, any employment that has been taken into account for the purposes of those pension benefits.

An employee will not be entitled to a redundancy payment if they:

- have unreasonably refused to accept or apply for a post which the organisation deems as suitable alternative employment with the same or another NHS employer
- At the date of the termination of the contract have obtained without a break, or with a break in service not exceeding four weeks, suitable alternative employment with the same or another NHS employer.

Employee Support

The Trust recognises the need for and importance of providing support to employees affected by change throughout the process. Therefore, employees who are directly affected by change and /or are formally 'at risk' of redundancy will be offered support, identified as part of the individual consultation process.

This may include support and assistance with identifying and applying for suitable alternative employment and help with CV's/application forms and interview skills. In addition, in suitable cases, the Trust may seek outplacement assistance from an external agency.

Support will also be available for staff affected by organisational change from the Occupational Health Department, Human Resources Department and Trade Union Representative.

Employees who are under formal notice of redundancy, will be given reasonable paid time off to seek other employment or to seek training for future employment.

Sympathetic consideration will also be given to requests for time off for such purposes to employees who, whilst not under formal notice, may well soon be given notice and/or who would, in voluntarily securing other employment, remove the possibility of a compulsory redundancy.

Appeals

An employee issued with notice of dismissal on the grounds of redundancy, will have the right to appeal against the dismissal e.g. unfair selection for redundancy. The Trust's procedure for handling appeals against dismissal will apply (as stated in the Trust's Disciplinary Policy, Procedure and Guidance (WAHT-HR-017)).

Any employee who has a grievance relating to the way the process has been handled such as unfair selection can invoke the Trust's Grievance procedures.

TUPE - Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014.

When services are transferred from one organisation to another, in line with current legislation, staff engaged wholly or almost wholly within the transferring service will normally transfer to the new organisation.

Any such transfers will be subject to the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014, which protect an individual's employment status and terms and conditions of employment on transfer to a new employer.

Consultation will be on going but formal notice of the proposed transfer will normally be issued 3 months prior to the date of transfer. Where this is not possible because, for example, the timing of external announcements or decisions of approval, a shorter notice period will be negotiated with recognised Trade Unions.

For further guidance on managing situations that potentially fall under Transfer of Undertakings legislation please contact the HR department.

Excess Mileage

Where staff have to travel greater distances from home to their new permanent base as a consequence of organisational change process they will be reimbursed any excess mileage at the Trust's public transport rate for a maximum period of 2 years.

Financial risk assessment

The financial risk assessment associated with this Policy is attached a Supporting Document 2. The financial risks associated with this Policy are in relation to any potential redundancy payments and/or protection of pay.

Consultation

This policy has been developed in consultation with the Trusts recognised Trade Unions and management representatives.

Implementation Plan

The policy will be implemented immediately upon approval and will replace any previous change policies.

The policy will be placed in the Trust's HR Document library on the Intranet.

Awareness of the Policy will be raised throughout the Trust. It will also form an integral part of Management Development training.

The policy has been approved by the JNCC and the LNC