

Redundancy Policy

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Additionally refer to:

- Redeployment Policy
- Management of Organisational Change Policy
- Fixed Term Contracts Policy
- Pay Protection Policy
- Medical and Dental Terms and Conditions of Service for Consultants, Associate Specialists, and Specialty Doctor
- Retirement Policy
- Risk Assessment Tool and Risk Assessment Policy

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Contents

Page Number

Policy on a Page.....	4
1 Policy Statement	5
2 Scope.....	5
3 Definitions.....	6
4 Roles and Responsibilities.....	6
5 Fixed Term Contracts.....	7
6 Alternative Options.....	7
7 Redundancy Consultation.....	8
8 Rights to Representation.....	9
9 Selection for Redundancy.....	9
10 At Risk of Redundancy.....	9
11 Suitable Alternative Employment.....	9
12 Notice of Redundancy.....	10
13 Redundancy Payment	10
14 Support for Staff.....	11
15 Right of Appeal.....	11
16 Training.....	12
17 Policy Review.....	12
18 Equality Impact Assessment.....	12
19 Process for monitoring Compliance.....	12
20 References.....	12

Policy on a Page`

- This Policy applies to employees on Agenda for Change terms and conditions employed by the Trust, including those employed on a fixed term contract, where the justification for ending, non-renewal or non-extension of the fixed term contract is that of 'redundancy' rather than that of 'some other substantial reason'.
- Medical, Dental Staff, Executive Directors, Non-Executive Directors, and Very Senior Managers will need to refer to their terms and conditions of employment and sections specific to redundancy which will take precedent over this policy where there is a conflict, otherwise the principles of this policy will apply.
- The Trust aims to avoid redundancies and will exhaust all potential suitable alternative employment options before any post is made redundant.
- In the event that redundancies are necessary, the Trust will ensure that redundancies are handled according to this policy and in a fair, consistent and sympathetic manner, without any form of discrimination.
- The Trust is committed to effective consultation with all affected employees, and with Trade Union and Professional Organisation representatives (TUPO).
- Redundancy payments will be paid in accordance with Section 16 of the Agenda for Change Terms and Conditions of Service Handbook. For Dentists, Consultants, Doctors, Specialty Doctors and Associate Specialty Doctors, redundancy payments will be made in line with the relevant schedule in the Terms and Conditions of employment.
- Whenever employees are identified at risk, the Trust will ensure that the principles of fairness and the procedural stages of this policy are properly followed, which take into account the needs of both the individual and where relevant groups of employees.

1 Policy Statement

- 1.1 The Trust recognises that its employees are its single most important asset and is committed to protecting the security of employment through effective workforce planning. This Policy provides a clear process to follow in potential redundancy situations taking into account employment law obligations.
- 1.2 It is the Trust's policy to avoid the need for redundancies wherever possible and all other options will be considered first with redundancy being the last resort.
- 1.3 In the event that redundancies are necessary, the Trust will ensure that all redundancies are handled according to this policy and in a fair, consistent manner, without any form of discrimination. Trade Union and Professional Organisation (TUPO) representatives will be consulted and engaged with prior to any formal announcement is made to affected employees.
- 1.4 Approval must be obtained from the Chief People Officer, if redundancies are necessary before any action is taken. There is also a duty to inform the Secretary of State for Business, Energy and Industrial Strategy (BEIS) about proposed redundancies by submitting form HR1.
- 1.5 This Policy should be read in conjunction with the Management of Organisational Change Policy and the Guidance for managing Alternative Employment.

2 Scope

- 2.1 This Policy applies to employees on Agenda for Change terms and conditions including those employed on a fixed term contract, where the justification for ending, non-renewal or non-extension of the fixed term contract is that of 'redundancy' rather than that of 'some other substantial reason'. See paragraph 5.1 below for further details.
- 2.2 Medical, Dental Staff, Executive Directors, Non-Executive Directors and Very Senior Managers will need to refer to their terms and conditions of employment and sections specific to redundancy which will take precedent over this policy where there is a conflict, otherwise the principles of this policy will apply.
- 2.3 In situations where it is established that TUPE Regulations apply and individuals choose to object to the transfer, there will be no right to redundancy.

3 Definitions

Employees At Risk	Employees whose posts may potentially be redundant as a result of organisational change if suitable alternative employment cannot be found.
Organisational change	Includes but not limited to the reorganisation, relocation, merger, expansion or closure of a service, redundancy, competitive tendering or outsourcing, or a major change in working practice.
Redeployment	The process of supporting employees to find suitable alternative roles within the Trust when their own role is at risk.
Redundancy	Redundancy is defined by the Employment Rights Act 1996 as "an employee who is dismissed for redundancy if the dismissal is attributable wholly or mainly to the fact that: The employer has ceased, or intends to cease: (i) to carry on the business for the purposes of which the employee was employed by him/her, or (ii) to carry on the business in the place where the employee

	was employed. or (iii) The requirements of that business a) for employees to carry out work of a particular kind, or (b) 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”
Redundancy Leave	Period of time that staff will remain employees of the Trust but at the Trust discretion, are not required to be available for duty.
Suitable Alternative Employment	The employee will be given preferential consideration for vacancies seen by the Trust as suitable alternative employment at, or in some circumstances one band below their substantive band (pay protection will apply). The employee may choose to be redeployed to a post that is more than one or two bands below their permanent post as opposed to the suitable alternative employment identified by the Trust. In these circumstances pay protection will not apply.
Trial Period	A period of 4 weeks when the employee undertakes the new role enabling both the manager and employee to assess the suitability of the post as suitable alternative employment. In exceptional circumstances this could be shorter or longer with appropriate agreement from both parties.
TUPE	Transfer of Undertaking (Protection of Employment) Regulations 2006.

4 Roles and Responsibilities

Trust Board

- 4.1 Trust Board has responsibility to oversee this policy and ensure that appropriate processes and actions are in place and to avoid any unnecessary redundancies.

Directors / Associate Directors / Heads of Department/Directorate

- 4.2 Directors / Associate Directors / Heads of Service are responsible for ensuring their service undertakes effective workforce planning, whilst considering financial implications. This will determine existing and future staffing needs and skill mix for their service, leading to efficient use of the workforce, minimising the risk of job losses, and providing greater job security. It is for the Directorate/Departmental Management Team to agree to the need and identify any organisational change requirements.

Human Resources

- 4.3 Human Resources are responsible for providing advice, support, and guidance throughout the whole process. To provide support where necessary at group consultation meetings and individual one-to-ones. They will maintain the re-deployment register and work with line managers to ensure employees are made aware of suitable alternative posts. In the event of redundancy they will provide all necessary paperwork in a timely manner and notify relevant Government departments and other statutory bodies as necessary.

4.4 Line Managers

- 4.4.1 Managers who lead on Organisational Change and potential redundancies must ensure they follow both this policy and the Management of Organisational Change policy. Managers will need to ensure they involve the Human Resources team so that effective engagement, consultation and communication with employees and their Trade Union and Professional Organisation (TUPO) representatives occurs at the earliest opportunity. Please read the Management of Organisational

Change policy which sets out the requirements for managers to follow in communicating and engaging with TUPO representatives and affected employees.

4.4.2 Line managers will also be responsible for ensuring that all affected staff are communicated with regularly and that all documentation associated with redundancy is completed within a timely manner and shared with all affected staff. Line Managers, Human Resources and TUPO representatives will aim to work effectively in the interests of affected employees ensuring, for example all formal meetings and one to one meetings are held in a timely manner that proposed changes are put in writing, linking employees with available support and any delays are immediately communicated.

4.5 **Trade Unions/Professional Organisations (TUPO).**

Trade Unions/Professional Organisations (TUPO) representatives play a vital role in advising and representing staff undergoing redundancy. The Trust will formally notify the trade unions of any proposed redundancies and will undertake consultation with them in line with legal requirements. They will provide support to their members throughout the redundancy process.

4.6 **Employees**

All staff have responsibility for engaging with proposed Organisational Changes which may impact on them and to ensure they are familiar with the procedural stages of this and the Organisational Change policies so they can actively participate in the process. Further, it is important that staff know how to access support via their TUPO representatives and through the Trust support mechanisms i.e. Occupational Health/counselling services and the Staff Psychological service. It is helpful that affected staff respond in a timely manner to communications from their Line Manager and/or the Human Resources team to proposed Organisational changes.

5 **Fixed Term Contracts**

5.1 When a fixed-term contract comes to an end and is not renewed or extended, this constitutes a dismissal under Employment Law. The reason for the dismissal will vary from case to case; however, the two main reasons for a dismissal will be 'redundancy', or 'some other substantial reason'. The expiry of a fixed-term contract will normally be considered to be a redundancy if the work for which the employee was employed has diminished or ceases to exist. This would cover projects which have run their course or, where specifically funded work has come to an end due to an exhaustion of or non-recurring funding. In these cases, the employee may be entitled to a redundancy payment provided that they have a minimum of 104 weeks' continuous service with the Trust or any previous NHS employer at the date their employment ends.

5.2 Employees who are employed to cover another employee's absence, and whose contract expires on the return of that employee would be deemed to have been dismissed for 'some other substantial reason' and consequently this would not constitute a redundancy. In such cases the termination of a Fixed-Term Contract process should be followed in accordance with the Fixed Term Contract & Temporary Workers Policy.

6 **Alternative Options**

6.1 The Trust will make every effort to avoid compulsory redundancy and/or limit the number of redundancies required through:

- Placing restrictions on further recruitment of new employees (in similar areas).
- Non replacement of leavers where there is no clinical risk identified through a risk assessment.
- Re-training and redeployment for affected employees where appropriate to fill essential vacancies.
- Restriction in overtime working and/or additional hours worked.

- Reduced usage of subcontracted labour, agency, bank and locum staff in circumstances where there is no clinical risk identified or where their usage is necessary prior to a closure situation or for special projects where specific skills or continuity are required.
- Consideration of flexible working arrangements.
- Voluntary reduction in contractual hours.
- Voluntary retirement.
- Redeployment.

7 Redundancy Consultation

- 7.1 The Trust recognises the importance of consultation with all employees and with their Trade Union and Professional Organisation representatives (TUPO), who are potentially affected and not just those who are at direct risk of redundancy.
- 7.2 As required by Law:
- where there are between 20 and 99 proposed redundancies at one establishment within a period of 90 days or less there is a minimum consultation period of 30 days,
 - or
 - where there are 100 or more proposed redundancies at one establishment within a period of 90 days or less there is a minimum consultation period of 45 days
- 7.3 Where there are more than 20 employees at risk of redundancy the Trust will undertake a formal consultation through the Joint Negotiating Consultation Committee (JNCC) and if applicable, the Local Negotiating Committee (LNC) in accordance with the statutory requirement for disclosure of information and notification to representatives. Written notification will provide details of:
- the reasons for the proposed redundancies,
 - the numbers and descriptions of the staff that are at risk of redundancy,
 - the numbers and descriptions of the total number of such staff employed by the Trust at the site affected by the change,
 - the proposed method of selection for redundancy,
 - the method of carrying out dismissals and their timings, and
 - the proposed method of calculating any redundancy payments to be made.
- 7.4 Where there are less than 20 employees to be made redundant the Trust will consult with affected employees and TUPO representatives and follow the points set out in 7.3 above.
- 7.5 Where an organisational change may result in redundancies, the Trust will undertake a formal consultation through JNCC in accordance with the statutory requirements for disclosure of information and notification to representatives.
- 7.6 Notes from any consultation meetings will be confirmed in writing to members of the JNCC/LNC and made available to the employees concerned. Individual consultation will also take place as appropriate.
- 7.7 The main purpose of the consultation meetings will be to discuss with employees and with their Trade Union and Professional Organisation representatives (TUPO), the situation and the reasons for the potential redundancy, the criteria and method of application to be used, and to consider any suggestions for avoiding compulsory redundancies.
- 7.8 During one to one consultation, employees will be given the opportunity to explain and discuss any areas of concern. Individual consultation may include looking at the options available to the employee, such as applying for redeployment, and considering any training or development opportunities that may be appropriate. The Trust's aim is to avoid redundancies by offering alternative employment where possible and wherever practicable.

7.9 The date on which this formal redundancy consultation is deemed to have started is the date on which formal written notification is given to the JNCC/LNC representatives.

8 Right to Representation

8.1 At any formal meetings the employee has the right to be accompanied by an accredited representative of the Trust's recognised trade union or professional organisations (for avoidance of doubt not a legal representative) or by a colleague employed by the Trust. Family members or partners who are also employed by the Trust are not able to accompany an individual unless they are required to assist with disabilities or language difficulties or any other extenuating circumstances.

9 Selection for Redundancy

9.1 In situations where it becomes necessary to select individuals for redundancy advice will be provided by Human Resources and will consider the following:

- Where a single job ceases to exist, the job holder will normally be the redundant employee.
- Where a number of posts are redundant or where it is proposed to reduce the number of posts required, employees will be identified from the selection process, based on specified criteria (HR advice should be sought about the selection process).
- The redundancy exercise must ensure there is no bias in the selection criteria. It must not disproportionately affect employees with a protected characteristic.
- The selection criteria will be discussed with Trade Union or Professional Organisation representatives.

10 At Risk of Redundancy

10.1 Where staff are at risk of redundancy they will be informed by letter. Before any post is made redundant, the Trust must exhaust all potential suitable alternative employment options.

11 Suitable Alternative Employment

11.1 Employees at risk, supported by their Line Manager and Human Resources, are requested to complete the forms to register onto the Alternative Employment Register. This is a necessary requirement should the need arise for affected staff to be redeployed. A suitable alternative post will, in the first instance be at the same or one band lower than the employee's substantive post. The following points must be taken into consideration:

- Any potential loss of status/profession
- Location and cost of travel
- Working environment
- Current hours of work
- The individual's personal circumstances
- Skills, knowledge, experience and scope to retrain
- Cost of pay protection against any other costs
- Needs of service / skill mix

11.2 The employee may choose to be redeployed to a post that is more than one band below their permanent post or to a post one band below their permanent post as opposed to the suitable alternative employment identified by the Trust. Please be aware that in these circumstances pay protection will not apply.

- 11.3 Redundant employees who accept suitable alternative employment with the Trust will be entitled to a four week trial period. Where the post is broadly similar to the employee's current post in terms of pay, banding, levels of responsibility, skill etc the post will likely be considered as a 'suitable' alternative. If the employee subsequently does not accept this offer of a suitable alternative post then they may lose their entitlement to redundancy payment. Where an 'alternative' post is offered to an employee, they may undertake a trial period without affecting any entitlement they may have to redundancy compensation.
- 11.4 The Alternative Employment Guidance (available on the Trust's intranet site) outlines the process to be undertaken to secure suitable alternative employment and ensure that the legal requirements under this are met; this guidance should be referred to as part of this process.

12 Notice

- 12.1 Those employees selected for redundancy will be given written notice of termination in accordance with contractual entitlements. Staff will normally be expected to work their notice period although the Chief People Officer may use their discretion to authorise 'redundancy leave'. In exceptional cases an individual under notice may request, in writing, to waive their entitlement to notice and leave earlier on a mutually agreed date with redundancy pay calculated up to the revised date of termination. All such requests should be referred to the Human Resources Team.
- 12.2 Staff who unreasonably refuse to apply for or accept suitable alternative employment within the Trust will potentially forfeit their right to redundancy pay.

13 Redundancy Payment

- 13.1 Redundancy payments will be paid in accordance with Section 16 of the Agenda for Change Terms and Conditions of Service Handbook or in accordance with Terms and Conditions of employment for Medical and Dental Staff. The redundancy payment will take the form of a lump sum, dependent on the employee's reckonable service at the date of termination of employment. Any payment due will be made following termination of employment. Anyone who feels that their payment is incorrect must write to the Chief People Officer within 21 calendar days of the date when they receive their redundancy payment.
- 13.2 If, before the date of termination, an employee is offered suitable alternative employment with their own employer or with another NHS employer and that employment starts within 4 weeks of the termination date, they will not be entitled to a redundancy payment. Before payment is made the employee will certify that they have not obtained, been offered or unreasonably refused to apply for or accept, suitable alternative employment within four weeks of the termination date and they understand that payment is made only on this condition and undertake to refund it if this condition is not satisfied.
- 13.3 Employees meeting the NHS Pension criteria for early payment of their pension on being made redundant will have a choice of options. If an employee wishes to take their pension when made redundant the employee is advised to contact the Pensions Department and access the Retirement Policy.

14 Support for Staff

- 14.1 Whenever an employee is identified at risk, a number of measures can be implemented to assist the individual, according to their needs, to make the transition. Advice and support may include (but is not limited to) one or more of the following:
- Reasonable paid time off to complete applications and to attend interviews
 - Reasonable time off to make arrangements for training for future employment
 - Counselling
 - Occupational Health and Wellbeing
 - Help with CV's and Interview skills
 - Staff Psychological Service: The Staff Psychology Service is available to support any member of staff who is experiencing emotional distress in relation to a work-related issue. Individuals wanting to access support can refer themselves by emailing: sath.staffpsychology@nhs.net or a manager can refer on their behalf. Information about the service is also available on the intranet: [SaTH Intranet - Staff Psychology Service](#)
- 14.2 Subject to the Trust's operational requirements, affected employees will also be entitled to take reasonable time off work during their notice period to look for work or seek retraining opportunities. Requests for time off in the first instance should be made to their direct line manager.

15 Right of Appeal

- 15.1 An employee who is given notice of dismissal due to redundancy has a right of appeal if:
- they feel that they have been unfairly selected for redundancy, or
 - they feel that they have not been properly considered for a post within the Trust where they have been in competition with another employee, or
 - they have been offered a post deemed by management as suitable alternative employment, which they do not consider to be suitable.
- 15.2 Any individual wishing to lodge an appeal must do so in writing to the Chief People Officer no later than 14 calendar days.
- 15.3 The appeal should set out in detail the grounds for the appeal. An employee has the right to be represented, if they wish, at any formal stage of the process by either a recognised TUPO or accompanied by a Trust employed work colleague. Family members or partners who are also employed by the Trust are not able to accompany an individual unless they are required to assist with disabilities or language difficulties or any other extenuating circumstances.
- 15.4 Appeals will normally be heard within 14 calendar days of the appeal being lodged. The appeal will be heard by the relevant Trust Board Director or nominee, who will be advised by a member of the HR Department. Where the appeal is made by an individual in pay band 8 or 9 or by a doctor or dentist the Appeals Panel will include at least one Trust Board Director. The employee will be notified by letter of their right to be representative or accompanied at the hearing.
- 15.5 The decision of the Trusts Appeals Panel is final.

16 Training

- 16.1 Managers and employees are actively encouraged to be familiar with this and the Organisational Change policies.
- 16.2 Managers are encouraged to seek training support when managing a redundancy situation by contacting HR and/or the Training and Organisational Development teams.

17. Policy Review Process

- 17.1 This policy will be reviewed if there are any changes to national terms and conditions, and in 3 years' time.

18. Equality Impact Assessment (EQIA)

- 18.1 This policy applies to all employees equally and does not discriminate positively or negatively between the nine protective characteristics.

19. Process for Monitoring Compliance

- 19.1 The process for monitoring compliance is detailed below:

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Organisational Changes which potentially impact on redundancies.	Monthly reporting to JNCC.	HR	Monthly	JNCC and Trust Board.
Number of organisational changes taking place	Bi-Annual report of HR activity data	HR	Bi-Annual	JNCC and People and OD Assurance Committee (PODAC)

20 References

ACAS - <https://beta.acas.org.uk/redundancy>

Gov.UK - <https://www.gov.uk/redundant-your-rights>

NHS Terms and Conditions of Service Handbook - http://www.nhsemployers.org/employershandbook/afc_tc_of_service_handbook_fb.pdf