



## Organisational Change Policy & Procedure (Including Redundancy and TUPE)

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## **1. Objectives**

- 1.1. As an employer, South East Coast Ambulance Service NHS Foundation Trust (the Trust) recognises that its colleagues are the most valuable of its resources and aims to provide a stable and secure working environment for all colleagues. However, the changing health environment poses a number of challenges and as such, organisational change may be necessary.
- 1.2. This policy provides a unified approach where the number and/or type of colleague/ roles required by the Trust changes as a result of organisational change and/or transformation.
- 1.3. The policy will be implemented with a commitment to transparency, information sharing, good employee relations and joint partnership working, with the aim of ensuring that the Trust can be efficient and flexible in the way it responds to an ever-changing environment.
- 1.4. In accordance with best practice (ACAS Redundancy guidelines), legal requirements and national terms and conditions of service, the policy provides a clear framework for all involved together with the procedures which will be followed when implementing any organisational change programme.

## **2. Scope**

- 2.1. This document applies to all colleagues who are affected by organisational change.
- 2.2. This policy also relates to colleagues joining or leaving the Trust under Transfer of Undertakings Protection of Employment Regulations (TUPE).
- 2.3. This policy does not apply to:
  - Individuals engaged under a bank agreement.
  - Those subject to redeployment on the grounds of ill health or for other reasons not associated with organisational change.
  - Colleagues seconded into the Trust (those colleagues are the responsibility of their substantive employer).
  - Colleagues subject to minor changes (see section 2.5).
- 2.4. Organisational changes and/or transformation include (but not limited to)
  - Service Redesign/Restructure/ Reorganisation leading to local changes to terms and conditions of employment
  - Changes to colleague rosters or working hours
  - Major changes in working practices

- Expansion, reduction or closure of a function
- Merger/acquisitions
- Relocation of services
- Transfers into and out of the organisation (TUPE Transfers)
- Local implementation of national policy/ legislation changes which directly affects colleague and is not covered by another policy

2.5. There may be occasions when managers need to implement relatively minor changes, which do not have a significant impact on individuals' terms and conditions, or which are allowable under the terms and conditions, and therefore do not fall within this policy. Any situation which may lead to colleagues being declared at risk or a change in banding/grading will not be deemed to be a minor change, irrespective of the number of colleagues involved.

Minor Changes not include within this policy may include (but are not limited to):

- Proposed minor changes to job descriptions, duties.
- Changes to duties, which are already within the overall scope of the job description or person specification or can be accommodated within the colleague's existing job evaluated pay band.
- Proposed changes to line management arrangements (where these are not significant).

Such minor changes may be implemented without recourse to the formal procedures in this document. There will however be a requirement for the line manager to discuss with the Human Resources Department and to provide reasonable consultation with affected colleagues.

### **3. Definitions**

3.1 Full definitions are detailed in Appendix A.

### **4. Principles Underpinning all Organisational Change Processes**

4.1. Organisational change is driven by the needs of the Trust and can be triggered either by the external environment or by an internal review of service requirements. The Trust is responsible for deciding the size and most efficient use of the workforce but in doing so is committed to the following principles.

4.2. In accordance with legislation and partnership working principles, the Trust commits itself to meaningful and appropriate consultation with its recognised trade unions and affected colleague, with a view to reaching agreement on the way forward, there will however be occasions when changes will need to proceed without a consensus being reached.

- 4.3. The timing and extent of consultation will be proportionate to the degree of proposed change, the number of colleague affected and the impact on individuals.
- 4.4. Formal consultation, with both the recognised trade unions and affected colleagues, will take place prior to implementing the change.
- 4.5. Change processes should be consistent and fair, and where possible, sensitive to the needs of individual colleagues. Colleagues are entitled to be represented by their Trade Union Representative or work colleague at all consultation meetings and any meetings to discuss implementation stages.
- 4.6. In any restructure as many eligible colleagues as reasonably possible will be 'slotted in' to the new structure or supported to identify suitable alternative work. Colleagues will be considered against their substantive post and contractual arrangements.
- 4.7. Where a proposed change involves a potential reduction in colleagues, all reasonable measures will be taken to avoid and/or reduce the need for compulsory redundancies, for example, recruitment freeze, reviewing agency colleagues/overtime etc.
- 4.8. In accordance with the NHS Job Evaluation system, all new roles and revised roles must have an up to date job description and confirmed job evaluated pay band, prior to consultation commencing.

## **5. Roles and Responsibilities**

### **5.1 The Board** has responsibility for

- The scrutiny and approval of all organisational change/ transformation business cases over £750k.

### **5.2. The Executive Management Board** has the responsibility for

- The scrutiny and approval of all organisational change/ transformation business cases with a value of between £100k and £750k.
- Ensure that appropriate processes and actions are in place to avoid any unnecessary redundancies.
- Ensuring their service undertakes effective workforce planning, whilst considering financial implications.

### **5.3. Lead Manager** - Will be a Director or their delegated senior manager, responsible for:

- Leading on the management of the organisational change process as detailed in this policy and utilising the associated Organisational Change Toolkit.

- Advising the HR Business Partner, at the earliest opportunity, of any potential changes affecting the workforce, to jointly discuss, plan and prepare prior to the consultation launch.
- Working in partnership with the HR and Finance Business Partner throughout all change processes.
- Ensuring that all required approvals are in place.
- Ensuring that an Equality Assessment (EA), to identify equality impacts, is completed for each individual change project. (see Section 7, Approval).
- Working in partnership with trade unions.
- Providing, where possible, information in a timely, open, full, honest and understandable way, ensuring consistency and fairness of approach, both during and post consultation.
- Documenting changes and discussions undertaken.
- Ensuring that all affected colleagues are offered one-to-one support (formal and informal), as appropriate and reasonable to assist them in considering their options, taking reasonable steps to mitigate against the effects of change on the individual.
- Following each change project, conducting a full evaluation process to identify lessons learned and to share for future change programmes.

#### **5.4. Colleagues - All colleagues have responsibility for:**

- Always upholding the values of the Trust; taking pride, striving for continuous improvement, acting with integrity, demonstrating compassion and respect and assuming responsibility.
- Engaging with the process, attending any consultation or redeployment meetings offered, and informing the Trust of any personal circumstances that may prevent them from adapting to the changes.
- Along with support from their Line Manager and Human Resources, colleagues at risk must register with TRAC and take responsibility for seeking employment as part of the process, giving proper consideration to offers of suitable alternative employment and undertaking any agreed trial periods.

#### **5.5. Trade Union Representatives**

- Trade unions play a vital role in advising and representing colleagues throughout the change process, upholding the principles of this policy and providing feedback on the views of the colleagues affected.
- Union representatives should discuss matters of concern informally before raising concerns under any formal processes so as to not unduly delay organisational change processes.

#### **5.6 Line managers**

- Will work with the Human Resources team to ensure effective support, engagement and communication with colleagues around suitable alternative employment vacancies.

- Will provide additional welfare and wellbeing support and signposting for individuals affected by change.

## **5.7 Human Resources**

- Working in partnership in developing business case proposals,
- Providing advice, support and guidance throughout all change processes.
- To provide support at group consultation and individual meetings.
- Maintenance of the redeployment register, working with line managers to ensure colleagues are made aware of suitable alternative posts, where available.
- In the event of redundancy, they will provide all necessary paperwork in a timely manner, notify the Department of Business, Energy and Industrial Strategy and other statutory bodies, as necessary, within the set timeframe.

## **6. Stage 1 - Planning and Proposals**

- 6.1. Before making any changes, speak to your HR Business Partner to discuss whether the change would be covered by the scope of this policy.
- 6.2. At the outset of the change process the Lead Manager in conjunction with the HR and Finance Business Partners, will discuss proposals that may affect the roles, contractual terms or job security of colleagues.
- 6.3. At this stage, existing job descriptions and person specifications must be reviewed.
- 6.4. Job descriptions for all newly identified posts and existing posts that require changes should be drawn up. These must then be evaluated in accordance with the Trust's Job Evaluation Policy, prior to consultation commencing.

## **7. Stage 2 – Approval**

- 7.1. The Lead Manager, in partnership with HR and Finance Business Partners must draft a formal business case for consideration by the Business Case Review Group.
- 7.2. Approved business cases with a value of between £100k and £750k will also require the scrutiny and approval from the Executive Management Board.

Approved business cases over £750k will also require the scrutiny and approval from the Board.

- 7.3. An organisation change process cannot progress beyond this stage without all of the required approvals.
- 7.4. All change processes that involve workforce restructure and consultation will require an Equality Assessment to be submitted to the Inclusion Working Group (IWG) with sign off from either the Head of Inclusion and Wellbeing or Inclusion Manager.

## **8. Stage 3 - Pre-Consultation**

- 8.1 Early informal discussions with the trade unions via [unionjpf@secamb.nhs.uk](mailto:unionjpf@secamb.nhs.uk) is encouraged. This is known as Pre-consultation and should start from the point the changes are known and worthy of serious consideration by management and following Executive Team approval.
- 8.2. Meaningful pre-consultation often leads to greater colleague satisfaction with the process. Informal engagement with affected colleagues should take place prior to commencement of the formal procedure, wherever possible and appropriate, in order to gain initial thoughts and comments and is encouraged prior to the finalisation of the consultation document.

## **9. Stage 4 - Consultation Document**

- 9.1. The lead manager, with support from HR, shall prepare a formal consultation document on the proposed change. This will be forwarded to Union JPF, for their information, prior to the consultation launch and will include:
  - The nature of the proposed change
  - Reasons for the proposed change
  - Plans for management of the change
  - Expected timelines
  - Arrangements for ensuring colleagues and trade unions are kept fully informed
  - Measures to minimise the impact of the proposed change
  - Identification of posts which are the same or substantially the same in the old and new structures.
  - Where the proposals will lead to a reduction in the numbers of colleague's bands/ grades or occupational groups, management will identify the positions, individuals or pool of colleagues who are at risk of redundancy.
  - Selection arrangements for posts within the new structure. (Appendix C)
  - New and revised evaluated job descriptions.
  - Equality Impact Assessment on proposed change.

Where redundancies are proposed, the information provided in writing shall include the following:

- The numbers and descriptions of colleagues whom it is proposed to dismiss as redundant.
- The total number of colleagues of any such description employed by the Trust at the establishment in question.
- The proposed method of selecting colleagues who may be dismissed.
- Whether other options such as voluntary redundancy or voluntary early retirement may be a consideration.
- The proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect.



- The proposed method of calculating the amount of any redundancy payments to be made (over and above the statutory redundancy payment) to colleagues who may be dismissed.
- The number of agency workers engaged by the Trust, where they are working, and the type of work they are doing.
- Confirmation, where it is proposed to make 20 or more colleagues redundant, redundant at any one establishment/location/site within a 90-day period that an HR1 form has been completed to notify the Department of Business, Energy and Industrial Strategy.

## **10. Stage 5 – Formal Consultation**

- 10.1. In all cases, where possible, the Trust will allow enough time for meaningful consultation with colleagues and their representatives.
- 10.2. In a collective redundancy scenario, consultation will continue for a period of no less than the statutory time scales:
- Where 20-99 redundancies are proposed redundant at any one establishment/location/site within a 90-day period consultation should commence at least 30 days before the first redundancy takes place
  - Where 100 or more redundancies are proposed redundant at any one establishment/location/site within a 90-day period then consultation should commence at least 45 days before the first redundancy takes place.
- 10.3. In change scenarios where the Trust is proposing to make less than 20 roles redundant (individual consultation) or not proposing to make any roles redundant, the principles of 30 days consultation before notice of change is given should be followed where possible and appropriate. However, consultation may be for a shorter period, if jointly agreed by both parties.
- 10.4. Trade unions and colleagues may request an extension to consultation if this is necessary to enable them to understand and contribute to an informed discussion. Where requests for extension cannot be accommodated by the Trust, a reason will be given.
- 10.5. Formal consultation with the trade unions will commence within the minimum timescales above once:
- Any informal comments have been considered;
  - The consultation document has been finalised; and
  - All affected colleagues and their recognised Trade Unions have been invited to the first consultation meeting.
- 10.6. At the earliest opportunity, the Lead Manager should arrange a formal group consultation meeting with the affected colleagues and representatives, giving a minimum of 7 calendar days' notice in writing. The allocated HR representative

must also be in attendance. Where the consultation paper identifies that colleagues are at risk of being made redundant should the proposals be implemented, the individuals affected will be given an at risk letter and an opportunity to discuss this at their individual meeting(s).

- 10.7. Consideration will be given to the timing and location for the meeting(s). Colleagues who are absent from work for any reason including employment breaks/secondments/ maternity leave/ shared parental leave/ adoption leave, etc, will be sent an invite letter and consultation document to their home address/other suitable address (by recorded delivery) so that they can participate in the consultation process.
- 10.8. The following are required at all formal group consultation meetings with colleagues and their representatives:
- A presentation for colleagues detailing the proposed change processes and timeframes, in line with the consultation document.
  - A questions and answers session - to receive and where possible address any questions on the consultation document.
  - A record of any comments or views on the consultation document including any alternative proposals.
  - Information on the provision of subsequent individual consultation meetings.
  - Other methods identified as being required.
- 10.9. Lead managers must ensure all responses are seriously considered and responded to during the consultation process either verbally or in writing. Management will ensure that trade union/professional organisation representatives are kept up to date of any changes or developments and will meet with trade unions as appropriate.

## **11. Individual Consultation Meetings**

- 11.1. In addition to the group consultation meetings, each colleague will be offered the opportunity of at least one individual meeting with an appropriate manager and HR representative.
- 11.2. The purpose of the formal individual meeting is to identify and record the following:
- Where colleagues are considered to be at risk of redundancy, to confirm that status; and
  - To consider alternatives to redundancy, including any suitable alternative employment.
  - Identify which role (if any) in the new structure is closest to current substantive Job Description/Person Specification, discuss slotting in/pooling and any interview process that will apply.

- 11.3. All colleagues will be notified which pool/s they have been allocated to and they have the right to challenge the decision. Colleagues should raise their concerns to the Lead Manager within 10 calendar days of notification. The Lead Manager will then, in conjunction with HR, consider the challenge and respond within 5 working days in writing with the outcome. Should a colleague choose to exercise this right they must identify a reason why they feel that they should be included in another pool or excluded from the one classified.
- 11.4. Line Managers will be responsible for:
- Meeting arrangements for those requesting individual consultation.
  - Completion of a written record. The record will be a note of the main points discussed at the meeting.
  - The Line Manager should then arrange further individual meetings as necessary.
- 11.5. Throughout this period the affected colleagues will be encouraged to discuss their concerns and queries with their line manager and trade union/professional organisation representative.

## **12. Stage 6 - End of Consultation**

- 12.1. At the end of the consultation period the lead manager will consider all the responses received, including those expressed in individual meetings, before reaching a final decision on the changes to be implemented. It is not necessary for the parties involved to reach agreement for the consultation to be complete, as long as there has been genuine consultation with a view to reaching agreement.
- 12.2. Those people affected by the changes should be informed of the outcome decision in person wherever possible.
- 12.3. The Lead Manager will be responsible for providing a consultation closure paper which may include:
  - The reasons and rationale for the decision
  - An explanation where the management decision is in conflict with the views of the affected colleagues and/or trade unions or where the proposal has changed as a result of the consultation
  - Key questions raised during the consultation and responses to them
  - Arrangements for filling posts via slotting in or limited competition
  - Measures taken to avoid compulsory redundancies
  - Arrangements for seeking suitable alternative employment
  - Reference to the Trust's protection arrangements and how these will apply
  - Support for colleagues who are affected by the change including: wellbeing support, reasonable time off to seek other employment or undertake training, time to meet with their trade union representative, help with preparation for interviews
  - Proposed timescales for each stage of the change process.
- 12.4. This can be communicated either in group meetings or individual meetings as appropriate depending on the changes and likely impact on colleagues. Trade Union representatives should be kept informed at every stage.

## **13. Implementation of the Change**

- 13.1. The ring fencing of jobs for certain 'pools' of colleagues will vary depending on the particular organisational change. Following consultation, should it be decided that the proposals will continue, any implementation process may be completed in tiered stages, commencing most usually with the most senior affected roles.
- 13.2. Colleagues acting up or in interim roles will not automatically be included but will be able to apply when the posts are advertised internally across the organisation, should no appointment be made.

## **14. Phase 1. Slotting In**

- 14.1. Where a post within the new structure substantially remains the same (defined as matching at least 66% of the overall job purpose and key responsibilities) as a post in the old structure, a colleague can be slotted into the new post provided:
- There is only one person to whom this applies or there are equal numbers of colleagues and posts;
  - The band of the post is the same. There may be instances where colleagues slot into a lower band with pay protection, in line with the Trust's Pay Protection Policy; and
  - The colleague meets the essential criteria of the new person specification or are able to meet these within a reasonable and agreed period.
- 14.2. In cases of slotting in, competitive selection is not required, and the colleague is automatically appointed to the role without an assessment at risk.
- 14.3. If colleagues are slotted into posts in the new structure it will be considered by the Trust that the posts offered are suitable alternative employment and the individual will no longer be at risk of redundancy or entitled to a statutory or contractual redundancy payment. All details of any slotting in will be confirmed in writing by the Lead Manager.
- 14.4. Where slotting in is not possible, the affected post(s) will be ring fenced for limited competition.

## **15. Phase 2 - Limited Competition**

- 15.1. Posts not filled by slotting in will be available for eligible colleagues on a limited competition basis. This will be a closed round of competition for colleagues currently doing similar work at a similar level. Only colleagues at risk of redundancy and assigned to the appropriate pool will be eligible to apply for these roles at this stage. Adequate time will be afforded to affected members of colleagues to consider which posts to apply for and to prepare for an interview where this is necessary.
- 15.2. Roles that are one grade lower than an at-risk colleague's substantive role will be considered, with appropriate pay protection, in this phase. In circumstances where the posts in the new structure are at a higher band, limited competition interviews may take place for the higher banded post(s) involving eligible at-risk colleagues, but only where the colleague meets the essential requirements of the new role, or could achieve the required skills, knowledge, and experience within a reasonable period of development (as determined by the line manager).
- 15.3. In line with the Trust's recruitment practices, the interview and selection process will determine which colleague(s) should be appointed to the role(s) in this Phase.

- 15.4. If colleagues are offered a limited competition post it will be considered by the Trust that the posts offered are suitable alternative employment and the details will be confirmed in writing by the Lead Manager. Any such the colleague will no longer be at risk of redundancy or entitled to a statutory or contractual redundancy payment.
- 15.5. Until the outcome of these interviews is known at-risk colleagues will not normally be placed at notice of redundancy.
- 15.5. At-risk colleagues who are unsuccessful for appointment to new posts within their tier will not be eligible for slotting in or limited competition in respect to a post or posts in a lower band than their tier permits.

## **16. Phase 3 - Open Competition**

- 16.1. Where affected colleagues are not slotted in or appointed to the remaining roles, the Trust will advertise the post more widely. Colleagues who are identified at risk will be given priority status for any suitable alternative employment where they meet the essential criteria and such posts will not be advertised externally unless interviews with at-risk colleagues are unsuccessful in finding a suitable candidate for the role.
- 16.2. Any colleague who is on maternity, adoption or shared parental leave when placed at risk of redundancy will be entitled to be offered a suitable alternative vacancy, over other redeployees, should one be available. If the colleague accepts the suitable alternative employment, it will start immediately after that colleague's existing contract ends.

## **17. Redundancy Arrangements**

- 17.1. Whilst the Trust 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 colleagues member secure suitable alternative employment.
- 17.2. For every colleague who is made redundant, managers must liaise with the Human Resources Department in order to obtain details of redundancy entitlements. The manager will provide the affected colleague and their trade union, in writing, the following details:
- The number of weeks' notice due to the individual, in accordance with the contractual notice period. This may be exceeded in exceptional circumstances as agreed by the Director of HR.
  - The effective date of the redundancy, which will also be the last day of service
  - That there is the expectation that colleagues take any accrued annual leave during their notice period.
  - The amount of redundancy payment that will be paid.

- What efforts will be made to assist the individual in seeking suitable alternative employment during the notice period.
- What support is offered during the notice period.
- That reasonable time off with pay will be given to seek and prepare for alternative work.
- That early release will normally be given, unless there are compelling service reasons to the contrary. If the individual is successful in obtaining other employment outside the NHS and wishes to take this up during the notice period; the date of early release will then become the revised date of redundancy for the purpose of calculating any entitlement to a redundancy payment.

17.3. A colleague will have their contract of employment terminated on the grounds of redundancy at the end of their redundancy notice period if no suitable alternative employment can be found or if a trial period is unsuccessful.

## **18. Redundancy Payments**

18.1. All at-risk colleagues will be made aware of payments to which they would be entitled should their role be made compulsorily redundant. Redundancy payments will be made in accordance with contractual entitlements.

18.2. To qualify for a redundancy benefit the individual must have:

- A contract of employment with the Trust and
- At least 2 years' (104 weeks) continuous service within the NHS.

18.3. A redundancy payment, in line with Agenda for Change, takes the form of a lump sum, dependent on the colleague's reckonable service at the date of termination. Only full years of reckonable service can be counted when calculating redundancy pay.

- The lump sum is calculated on the basis of one month's pay for each completed year of reckonable service, subject to a minimum of 2 years' continuous service and a maximum of 24 years reckonable service (i.e. the maximum payable is 24 months).
- For colleagues earning less than £23,000 per year (full time equivalent), the redundancy payment will be calculated using notional full-time annual earnings of £23,000, pro-rated for colleagues working less than full time.
- For those earning over £80,000 per year (full time equivalent) the redundancy payment will be calculated using notional full time annual earnings of £80,000, pro-rated for colleagues working less than full time.
- No redundancy payment will exceed £160,000 (pro-rata).

18.4 Before any redundancy payments can be received individuals will be expected to complete a "Declaration Form" – Relating to Redundancy Pay (see Appendix B).

18.5 The following service will not be counted:

- Where there has been a break in service of more than twelve months, the period of NHS employment prior to the break will not count as reckonable service;
- 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 colleague has previously been given pension benefits, any employment that has been taken into account for the purposes of those pension benefits.

## **19. Exclusion from Eligibility**

19.1. Colleagues shall not be entitled to redundancy payments or voluntary early retirement on grounds of redundancy if they:

- Are dismissed for reasons of conduct, with or without notice.
- At the date of the termination of the contract have obtained without a break, or with a break not exceeding four weeks, suitable alternative employment with the Trust or other NHS employer.
- Unreasonably refused to accept or apply for suitable alternative employment with the Trust or another NHS employer.
- Leave their employment before expiry of notice, except if they are being released early.
- They are offered a renewal of contract (with the substitution of the new employer for the previous NHS one).
- Have left under MARS (Mutually Agreed Resignation Scheme); or
- TUPE applies and there are no proposed redundancies as part of the transfer.

19.2. For further information please refer to Section 16, of Agenda for Change: NHS Terms and Conditions of Service Handbook and the NHS Pension Scheme early retirement booklet or seek further advice from the Trust's Pensions provider or your trade union.



## 20. Formal Redeployment Meeting

- 20.1. Once the implementation period has been exhausted, should the colleague's post remain displaced, the at-risk colleague will be invited to a formal redeployment meeting to be placed formally on notice of redundancy.
- 20.2. To ensure consistency across the Trust, the manager who chairs the meeting with the colleague where redundancy termination is discussed should have the authority to dismiss. The colleague will be entitled to representation at this meeting.
- 20.3. The purpose of this meeting is to discuss potential roles the Trust would consider to be suitable alternatives and the colleague's responsibility to actively seek redeployment opportunities during the redeployment period, including any support they may require in doing so. The meeting will include:
  - Any information required for inclusion on the redeployment register.
  - Any personal information such as childcare or other caring responsibilities.
  - Any formal flexible working arrangements in place.
  - Any issues around the geography/distances involved in the proposed changes and travel requirements.
  - Any issues relating to the Equality Act i.e. disability.
  - Any additional support or training needs in the light of new posts and their identified competencies.
  - The initial preferences of the colleagues concerning the type of work they would be interested in.
- 20.4. Wherever reasonably possible, every attempt will be made to find suitable alternative employment and avoid redundancies in order to ensure that business critical skills and experience are not lost.
- 20.5. If, as a result of accepting another post as an alternative to redundancy, there is a requirement for a colleague to change base, then the colleague may be reimbursed their extra daily travelling expenses, in accordance with section 17 National Terms and Conditions of Service Handbook and the Trust's Pay Protection Policy. There is no facility for any paid travel time at the start and/or end of the working day.
- 20.6. A Redeployment Form will be sent to the colleagues in advance of the meeting. The colleague is encouraged to complete as much of the form as possible and bring it to the meeting for discussion and sign off. Alternatively, the form can be started and then completed in the meeting.
- 20.7. The completed Redeployment Form must be sent to the HR Recruitment Team, Line Manager and HR Representative. The HR Recruitment Team will add the relevant details to the redeployment register held on TRAC.

20.8. The Line Manager will schedule regular updates with the colleague and HR representative throughout the redeployment period, ideally at a minimum of once every fortnight. The updates can take place either face-to-face or telephone/email.

## **21. Suitable Alternative Employment**

21.1. In assessing suitability, each colleague's individual circumstances will need to be taken into account as what is suitable for one colleague may not be for another.

21.2. Consideration of a role as a redeployment opportunity will be assessed against a number of factors.

- To not cause unreasonable additional inconvenience, for example
- Considering the location including additional travel time and cost, and travel arrangements including access to public transport
- Personal circumstances such as family or caring responsibilities
- To provide similar earnings, in respect to basic pay.
- To be broadly similar in terms of nature of work, job responsibilities and working times.
- In addition, the role would need to be assessed as being within the colleague's capability.
- Capacity to make reasonable adjustments (for someone covered under the Equalities Act 2010).
- Any status associated with the colleague's current role that may not be addressed with pay protection.

21.3. The Trust would deem a post one band lower than a colleague's current role as being an alternative position to be considered as suitable, possibly with protection of pay in line with the Trust's Pay Protection Policy. Where the colleague is placed at risk of redundancy, the Trust may consider pay protection for posts that are two bands lower than the current post. There may be circumstances where this additional flexibility is welcomed and agreed by the colleague (for example to support working longer/ step down etc.). However, the cost of pay protection will need to be met by the budget from the team the redeployee is leaving, so it is therefore essential to discuss pay protection with the outgoing manager before any offer is made to allow consideration in respect of the cost of pay protection versus redundancy.

21.4. Under Agenda for Change terms and conditions (Section 16) Colleagues may forfeit their right to any redundancy payment if they do not apply for or accept an offer of suitable alternative employment with the Trust or another NHS employer.

21.5. If an at-risk colleague does not wish to accept an offer for an alternative post, after assessment under the criteria above, it must be with good reason. They should contact their HR Lead in writing at [hremployee.relations@secamb.nhs.uk](mailto:hremployee.relations@secamb.nhs.uk), detailing their reasons for the refusal and why they consider the role unsuitable. The reasons

will be considered by the Trust and the individual will be informed whether their refusal has been accepted.

## **22. Trial Periods and Training**

- 22.1. Where the individual has the potential ability but not the immediate experience to undertake the full duties of a proposed suitable alternative role, they will be provided with appropriate skills development/training. This will be provided when it is reasonable, practical, and cost effective, and where the colleague demonstrates a willingness to learn and can apply the new skills within an agreed timeframe.
- 22.2. A trial period will only apply to at-risk colleagues who are on the redeployment register and where a formal offer of suitable alternative employment has been made.
- 22.3. The purpose of a trial period is for both the line manager and the individual to assess the suitability of the post, without prejudicing the individual's eligibility for redundancy pay. The line manager will set clear, measurable objectives and milestones for the duration of the trial.
- 22.4. The trial period will normally last 4 weeks, however, there is an option of offering a longer trial period (of up to 12 weeks) where a colleague requires additional training and development deemed necessary for the role. All parties should note that if a trial period is extended beyond 4 weeks then the individual may lose the right to a redundancy payment unless this extension is necessary for retraining for employment in the new role.
- 22.5. A trial period is likely to run concurrently with a notice period and should the full 4- week trial period run over the end date of the notice; the expectation is the notice period will be extended to accommodate the full trial period.
- 22.6. During the trial period the individual undertaking the role will do so on the terms of the new post, with the exception of any protection arrangements which apply.
- 22.7. Where a colleague is successful in their trial period and the recruiting manager wishes to formalise their appointment to the post, it is the responsibility of the recruiting manager to complete a Colleagues Changes Form.
- 22.8. If either the new manager or the individual deems the post to be unsuitable, they should raise their concerns to the other party and their HR lead at the earliest opportunity rather than leave this to the end of the trial period. Either party must stipulate the reasons why the trial is unsuccessful in order that any appropriate action can be undertaken.
- 22.9. If it is agreed that the trial period is not successful and the notice period is still in force the colleague should be placed on the redeployment register for the remaining weeks, to allow the search for suitable alternative redeployment to continue and any

future suitable role will be subject to the same arrangements concerning a trial period. In this case, the colleague will remain in the department of the trial role for the remaining period of redeployment. The original Line Manager will maintain responsibility for the redeployment process of the colleague during this period.

- 22.10. If no reasonable alternative employment is found at the end of this time, redundancy arrangements will apply as from the original contract termination date.

### **23. Fixed Term/Temporary Redeployment**

- 23.1. Redeployment into an advertised fixed term contract or secondment should only be considered if there are no permanent posts available. Should a colleague be redeployed into a temporary contract, they will continue to accrue redundancy rights for the duration of the contract.
- 23.2. Colleagues will remain on the redeployment register for the duration of such a role, so that a suitable alternative substantive post can continue to try and be identified.
- 23.3. Should any redundancy costs arise, these costs will remain with the originating services' budget.

### **24. Voluntary Redundancy / Voluntary Early Retirement**

- 24.1. In some cases, it may be appropriate to consider the use of voluntary redundancy and early retirement schemes.
- 24.2. Decisions regarding whether voluntary redundancy/ voluntary early retirement may be utilised and to which posts and/or persons this should be available to, will remain at the discretion of the Executive Leadership Board and the Trust's Appointments and Remuneration Committee, with advice from the HR Department (subject to any necessary external approval requirements). In considering any measures to avoid compulsory redundancies, decisions will be based on sound organisational reasons, financial viability, operational efficiency and service needs and must not breach equality legislation.
- 24.3. Where this course of action is agreed, letters inviting colleagues to apply for voluntary redundancy or voluntary early retirement will be issued. Administration of the process will be undertaken by the Human Resources Department.
- 24.4. Thus, all discussions with colleagues regarding potential voluntary redundancy will be strictly subject to approval by the Appointments and Remuneration Committee and a formal offer is made through the HR Department.
- 24.5. The Trust reserves the right to withdraw an offer of voluntary redundancy/ voluntary early retirement up to the point the offer is accepted in writing by the colleague if circumstances change giving rise to the offer becoming unviable or inappropriate. This might include, for example, where other suitable alternative employment which had not been foreseen is identified.

## **25. Appeals**

- 25.1. The right of appeal against the decision to dismiss a colleague by reason of redundancy should be made to the Head of Employee Relations and Reward at [hremployee.relations@secamb.nhs.uk](mailto:hremployee.relations@secamb.nhs.uk) within 14 calendar days of receipt of the letter confirming the redundancy and the case for the appeal must be outlined in full. This will be managed in line with the Appeal Section of the Grievance Policy. The outcome of this appeal will be final.
- 25.2. Any complaint about misapplication of the Organisational Change Policy and Procedure in the way that the consultation or redeployment processes have been handled will be dealt with in accordance with the Trust's Grievance Policy.

## **26. TUPE**

- 26.1. Where there is a proposal to transfer services and colleagues to a different employer, there will be consultation with the trade unions at the earliest opportunity and in line with statutory requirements. However, a minimum of 30 days (unless otherwise agreed by affected individual members of colleagues/trade union representatives) and where 100 or more colleagues are affected 45 days should be considered where reasonably practicable.
- 26.2. Details of the transfer will be provided by the Trust including, but not limited to: the reason and date of the transfer; the legal, economic, and social implications of the transfer; whether either the Trust or the future employer envisages taking any action (such as reorganisation) in connection with the transfer and, if so, how it will affect the colleagues; and information on the number and type of agency workers engaged by the Trust and the parts of the Trust in which they are working.
- 26.3. When services are transferred from one organisation to another in line with TUPE or by virtue of a Transfer Order under the National Health Service Act 1977, which mirrors TUPE, the employment of colleagues who are assigned to the services which are being transferred will transfer to the new organisation. TUPE applies in a variety of scenarios, including "contracting out" scenarios, retendering, and where the services are brought back into the NHS. Colleagues whose employment is subject to TUPE will not be redundant and therefore will not be entitled to redundancy payments/early retirement on the grounds of redundancy.
- 26.4. All the terms and conditions within the transferring colleague's contract of employment (including relevant policies and procedures) will transfer with them and should not be changed because of the transfer.
- 26.5. Where colleagues have responsibilities spanning more than one NHS organisation or more than one service, discussions will take place with the individual, their trade union representative and the organisations concerned to

determine if their employment should transfer. The options in this situation might be that the individual will transfer to one organisation with an agreement to provide services to the other(s), or have more than one contract of employment, or, in exceptional circumstances, to be declared at risk.

- 26.6. In all of these circumstances, for the purposes of the consultation that will be carried out, the manager will identify the services, posts and individual colleagues that will transfer or be affected in accordance with the obligations of TUPE and shall write to the colleagues affected and the appropriate trade unions informing them of the intention that colleagues will transfer, the implications of the transfer and any measures which will be taken in connection with the transfer.
- 26.7. The manager will then hold individual meetings with colleagues and their trade union representative to discuss the implications of the transfer, measures to be taken in connection with the transfer, answer any concerns or queries where possible, discuss possible options if appropriate and consider personal circumstances. These discussions will be documented.
- 26.8. Formal notice of a transfer will be issued as long before the date of the transfer as possible in order to comply with the obligations of TUPE. The Trust will make every effort to give up to 3 months' notice of a transfer, where possible. Where 3 months' notice is not possible because, for example, of the timing of external announcements or decisions of approval, a shorter notice period will be provided after consultation with Union JPF.

## **27. Monitoring compliance**

- 27.1. The policy will be monitored by the HR Business Partner & Employee Relations Team through feedback from colleagues and managers. HR will use the information to monitor the implementation of the policy and management of change. Feedback, legislature and changes to terms and conditions will be used to inform and improve policies, as well as provide recommendations for improving working practices. HR will provide relevant reports, based on this data, as required.

## **28. Audit and Review (evaluating effectiveness)**

- 28.1. All policies have their effectiveness audited by the HR Working Group at regular intervals, and initially six months after a new policy is approved and disseminated.
- 28.2. Effectiveness will be reviewed using the tools set out in the Trust's Policy and Procedure for the Development and Management of Trust Policies and Procedures (also known as the Policy on Policies).
- 28.3. This document will be reviewed in its entirety every three years or sooner if new legislation, codes of practice or national standards are introduced, or if feedback from colleagues indicates that the policy is not working effectively.

### **30. Equality Analysis**

- 30.1. The Trust believes in fairness and equality, and values diversity in its role as both a provider of services and as an employer. The Trust aims to provide accessible services that respect the needs of each individual and exclude no-one. It is committed to comply with the Human Rights Act and to meeting the Equality Act 2010, which identifies the following nine protected characteristics: Age, Disability, Race, Religion and Belief, Gender Reassignment, Sexual Orientation, Sex, Marriage and Civil Partnership and Pregnancy and Maternity.
- 30.2. Compliance with the Public Sector Equality Duty: If a contractor carries out functions of a public nature then for the duration of the contract, the contractor or supplier would itself be considered a public authority and have the duty to comply with the equalities duties when carrying out those functions.

### **Financial Checkpoint**

- 1.1. To ensure that any financial implications of changes in policy or procedure are considered in advance of document approval, document authors are required to seek approval from the Finance Team before submitting their document for final approval.
- 1.2. This document has been confirmed by Finance to have no unbudgeted financial implications.

## Appendix A

### Definitions

For the purpose of applying the provisions contained in this document, the following definitions shall have the following meanings:

1. **Continuous Service** means full or part time employment with the Trust or any previous NHS employer provided there has not been a break of more than one week (Sunday to Saturday) between employments. This reflects the provisions of the Employment Rights Act 1996 and Agenda for Change handbook (where applicable) on continuous employment. For the purpose of this policy 'NHS Employer' is any of the organisations listed at Annex 1 of the National NHS Terms and Conditions of Service Handbook.
2. **Reckonable Service** means Continuous Service plus any service with a previous NHS employer where there has been a break of 12 months or less. At the Trust's discretion any period of employment outside the NHS which is relevant to NHS employment may be counted as Reckonable Service.

**The following employment will not count as reckonable service:**

- 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 colleague has previously been given NHS pension benefits any employment that has been taken into account for the purposes of those pension benefits.
3. **Redeployment** means the process of finding suitable alternative employment for colleagues deemed to be at risk.
  4. **Colleagues at Risk of Organisational Change** means colleagues whose posts may potentially be altered/changed in some way as a result of changes to their position, structures, service. These can fall into several categories:
    - Where the overall timescales, precise numbers and milestones are still to be confirmed, or where there is a significant lead in time before the changes are finalised and colleagues are possibly declared 'at risk' of redundancy.
    - Where an organisational restructure is taking place and there are enough jobs in the new structure to accommodate all existing colleagues. Everyone will therefore be affected by change but will have a job at the end of the process.
    - Where colleagues are told that a certain cost improvement needs to be achieved and how many posts this roughly equates to, however



alternative options are being explored initially via the consultation process.

5. **Colleagues At Risk of Redundancy** Colleagues deemed at risk means those individuals who are at risk of loss of employment and whose posts are identified as potentially ceasing or duties associated with the post are diminishing or the requirement to carry out the work at a location have ceased or diminished, or are expected to cease or diminish as a result of any organisational change if suitable alternative employment cannot be found. This applies where a formal process of consultation on organisational change has commenced and individuals have been issued with an 'at risk' letter.
6. **Colleagues 'on notice' of redundancy-** this applies when colleagues have been issued with a formal notice of termination of employment by reason of redundancy letter. These colleagues will remain on the Trusts redeployment register until their employment is terminated. One example of where this would apply is where a service area has appointed colleagues during a limited competition process to posts in the new structure and there are a number of colleagues who have not been appointed to these roles. These colleagues will be issued with formal notice of redundancy and placed/remain on the Trust redeployment register.
7. **TUPE** means the Transfer of Undertaking (Protection of Employment) Regulations 2006 (amended 2014). This sets out the protection for colleagues where there is an identified relevant transfer, either of a business transfer or change to service provision.
8. **Business Transfer** occurs when part or a whole organisation transfers to a new organisation for example an acquisition or where two businesses combine to create a third organisation.
9. **Service Provision Change** is where there is a decision to engage a contractor to provide a service or tenders the service. For example, if the contract for payroll services was to be contracted out to a different organisation, or when the Trust wins a contract to provide a service for another organisation.
10. **Redundancy** - Where a colleague's employment ends as a result of organisational change. A redundancy situation may arise in the following circumstances:
  - The employer ceases or intends to cease to carry on the business in which the colleague member was employed;
  - The employer ceases or intends to cease to carry on the business in the place where the colleague was employed; and

- The requirements of the business for colleagues to carry out work of a particular kind have ceased or diminished or are expected to cease or diminish.
- The requirements of the business for colleagues to carry out work of a particular kind in the place where the colleague was employed by the employer have ceased or diminished or are expected to cease or diminish.

**11. Collective redundancy-** this arises when 20 or more colleagues are to be made redundant within a period of 45 days or less.

**12.** Pooling occurs where the number of roles has been diminished in the new structure or the job role requirements change significantly. Identification on the appropriate pool/s will be determined predominantly by the content of the new role and the requirement of band, qualifications and / or experience. All colleagues will be notified which pool/s they have been allocated to and they have the right to challenge the decision. Colleagues should raise their concerns to the manager who is leading on the restructure within 10 working days of their notification. The manager will then, in conjunction with HR, consider the challenge and respond within 5 working days in writing with the outcome. Should a colleague choose to exercise this right they must identify a reason why they feel that they should be included in another pool or excluded from the one classified. It is possible for colleagues to be allocated to more than one pool.

**13. Consultation** is the process by which management and colleagues, or their representatives jointly examine and discuss issues of mutual concern. It involves seeking acceptable solutions to problems through a genuine exchange of views and information. Consultation does not remove the right of managers to manage – they must still make the final decision – but it does impose an obligation that the views of colleagues will be sought and considered before decisions are taken.

**14. Month's Pay when Calculating Contractual Redundancy Payments**

As set out in the NHS terms and conditions of service handbook, a month's pay is defined as whichever is more beneficial, as follows:

- 4.35 times a week's pay, calculated in accordance with the provisions of Section 221 to 224 of the Employment Rights Act 1996
- an amount equal to 1/12th of the annual salary in payment at the date of termination of employment.

Payment should be calculated on the basis of the colleague's "normal working hours" so would include unsocial hours but would not normally include overtime unless the colleague is entitled to it under their contract of employment i.e. if the employer must provide overtime and the colleague must work it. This would include any contractual payments for that period.

## Appendix B

### **Declaration Relating to Redundancy Pay and/ or Premature Retirement on the Grounds of Redundancy**

I hereby claim payment due as a result of being declared redundant from the employ of South East Coast Ambulance Service NHS Foundation Trust.

Before the date of termination of my contract of employment I had not obtained, been offered or unreasonably refused to apply for or accept alternative employment with South East Coast Ambulance Service NHS Foundation Trust or another NHS Employer employment that starts within four weeks of the termination date.

I understand that the redundancy payment and/or retired benefits claimed is only paid on this condition being established (agenda for change national terms and conditions) and undertake to refund it if this condition is not satisfied.

Signed:

Date:

Name:

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\_\_\_\_\_ **Office use only**

**As the governing condition(s) have been established, payment of the above claim is authorised.**

Signature:

Date:

Director of Human Resources or Designated Deputy

## Appendix C

### Compulsory Redundancy Selection Criteria

Consideration will need to be given as to which of the following criteria could be appropriately used, with reasonable objectivity, when selecting those to be made compulsorily redundant.

Thought must also be given to the maximum weightings which should be applied to each criterion. It is not possible to predefine the criteria for selection, but the following provides some guidance, which should be consulted on. The selection criteria might include:

- Attendance record – the period of assessment should be reasonable and consideration should be given to patterns of attendance (discounting pregnancy-related or disability-related absence);
- Skills / qualifications;
- Performance / capability – provided that the assessment of performance itself is objective and ‘performance criteria’ is clearly defined from the outset. Evidence might be obtained through the appraisal process or other objective assessment;
- Disciplinary record – records must be compared over a reasonable period of time to ensure they are representative and must be in date;
- Length of service – not to be used as the sole criteria to avoid possible discrimination on the basis of age or sex;
- Affordability;
- Impact on Service.