

# GSTT Policy

## Organisational Change Policy and Procedure

### Document Summary

This policy and procedure contains the principles for effectively managing change when it affects staff employed by the Trust.

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February 2011	Clarification made in regards to staff at risk (appendix 2)	Head of Workforce Relations and Staff Side Chair
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October 2013	Update in line with the review date	Joint Policy Forum
January 2014	Update in line with the review date	Joint Policy Forum

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## **1. Introduction**

- 1.1 Guy's and St Thomas' NHS Foundation Trust (the "Trust") actively manages its services so as to provide the most effective health care for patients and clients within its resources. It recognises that as a result, changes may need to be made to the Trust's organisational requirements which may affect staffing needs.
- 1.2 This document has been developed so as to provide a unified approach to the issue of major organisational change by NHS organisations in London. "Major organisational changes" will include the reorganisation, relocation, merger, expansion or closure of a service, competitive tendering or outsourcing, or a major change in working practice. All such changes will be conducted in accordance with this document which incorporates best practice and legal requirements and aims to provide a framework for common understanding for managers, staff and trade unions.
- 1.3 The Trust Staff Side recognise that the Trust will always need to have regard to retaining specific knowledge, experience and skills so as to preserve a balance within the workforce. The Trust recognises that the Staff Side have the right to be consulted on this matter.
- 1.4 While most change involves new working practices or changes to contractual terms, some change entails uncertainty about future employment prospects. The Trust seeks to ensure that staff understand the reasons for, and that they are committed to, the change. It aims to maintain stability of employment where this is consistent with the efficient provision of services and to act fairly and reasonably with staff whose jobs are affected by such changes. Compulsory redundancy is therefore a measure of last resort.

## **2. Purpose**

- 2.1 The purpose of this document is to set out the Trust's approach to the management of organisational change and the procedures that should be followed by managers wishing to implement major change.
- 2.2 The principles and procedures support the aim of managing strategic and operational change in a way that is both supportive to staff and enhances the provision of the highest quality provision of patient care.

## **3. Equality Impact Assessment**

- 3.1 The Trust is committed to equality issues and will ensure that equal opportunities play a central role in employment practices, including in the application of this Policy and Procedure.
- 3.2 The Trust is required to comply with the law in relation to equality impact assessments and human rights and the environment. The Equality Act 2010 creates a single new Equality Duty on public bodies including NHS Trusts. The Equality Duty expands the

scope of the existing duties to all equality strands which are now called “relevant protected characteristics”.

#### 4. Scope

- 4.1 This document applies to all staff employed by the Trust and will be applied consistently and equitably to all staff.
- 4.2 **Change** is defined as significant organisational change applying to an individual or a group of staff. Examples of significant change include:
- a) the re-organisation or merging of services;
  - b) the restructuring of a function, position, service or department;
  - c) the closure of a specific service or ward;
  - d) change arising from competitive tendering;
  - e) relocation or major changes in working practice that would invoke pay protection or would introduce shift working including evenings and weekends.
- 4.3 The policy does not apply to changes deemed to be less significant such as minor service changes and reasonable changes to working arrangements with notice. Guidance on managing instances of minor change can be found within appendix 4 and eHR.

#### 5. Definitions

- 5.1 For the purpose of applying the provisions contained in this document, the following definitions shall have the following meanings:
- 5.2 **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.
- 5.3 **Reckonable Service** means Continuous Service plus any service with a previous NHS employer where there has been a break of 12 months or less.
- 5.4 **Redeployment** means the transferring or recruitment of Staff At Risk into a suitable alternative post.
- 5.5 **Ringfencing** means the process by which Staff At Risk (who have not been able to Slot in) will be considered for a post in a new staffing or management structure which is similar to their current post
- 5.6 **Slotting In** means the process by which employees affected by the proposed change are confirmed into a post in a new staffing or management structure which is 70% similar to their current post, and where that individual is the only contender for that post. Slotting in may occur where a post is in the same band as the individual's current post or where

it remains substantially the same with regard to job content, responsibility, grade, status and requirements for skills, knowledge and experience.

- 5.7 **Competitive Slotting In** means the process where employees take part in a selection exercise to be slotted in to a 70% similar role in the new structure because there are fewer posts than people
- 5.8 **Staff At Risk** means staff are potentially redundant as a result of organisational change, if suitable alternative employment cannot be found. This is described in Stages three and four of the Protocol for Staff at Risk in Appendix 2.
- 5.9 **TUPE** means the Transfer of Undertaking (Protection of Employment) Regulations 2006.

## **CHANGE MANAGEMENT**

### **6. Statement and principles**

- 6.1 Organisational change is driven by the business needs of the Trust. Change can be triggered either by the external environment or by an internal review of service requirements. Information on major organisation change can be found in Appendix 4.
- 6.2 In order to meet changing business needs more effectively, there may be occasions when managers need to implement relatively minor changes. Reasonable minor changes and adjustments to duties and working practices may be implemented without recourse to the formal procedures in this document but will require reasonable consultation with staff affected. See Appendix 3 flowchart for guidance. Any situation which may lead to redundancy will not be deemed to be a minor change.
- 6.3 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 for managing organisational change:
  - a) the Trust will provide such information about the proposed organisational change as it would be in accordance with good industrial relations practice to disclose to staff and the trade unions
  - b) staff will receive notice of any organisational change which may affect their futures at the earliest opportunity
  - c) staff will be treated as individuals with due regard to their personal and employment circumstances and their career aspirations at all stages of the change management procedure
  - d) staff will have the right to be accompanied by a trade union representative or workplace colleague at meetings to discuss the organisational change
  - e) the Trust will consider all reasonably practicable steps to avoid compulsory redundancies
  - f) staff will receive training and development, as appropriate to meet new skill requirements and where appropriate to identify new career opportunities, with time to attend training and development activities given

- g) staff will have access to the Trust's counselling services and career support will be available as appropriate, including referral to the Learning and Careers service.
- h) The Trust recognises that the time of change may be a difficult time for employees. As such, staff are encouraged to refer to the Management of Work-Related Stress Policy.

## 7. Duties and responsibilities

- 7.1 Staff are central to the achievement and success of organisational change. The Trust acknowledges that change can cause concern and uncertainty and should therefore be managed fairly and consistently in accordance with established good practice.
- 7.2 The Trust recognises the need, wherever possible, to engage staff in any change management procedure. Staff also have a role to play in this procedure.
  - a) **Managers** are critical to the change management process and shall therefore be regularly briefed so that they are in a position to respond to the concerns of staff in their teams. In turn managers should provide information to staff and trade unions so that they are able to make meaningful contributions to the consultation process. Managers must ensure that no member of staff is discriminated against on the grounds of any of the Protected Characteristics, as listed in the Equality Act 2010, when applying this policy. Managers should liaise with Workforce Relations (HR) to ensure the Trust is not open to claims of discrimination as a result of a change management process
  - b) **Staff** are expected to play an active role during the pre-consultation and consultation stages, in the further processes of implementation and in identifying new career opportunities
  - c) **Trade unions** play a vital role in advising and representing staff undergoing organisational change and in working with managers to ensure that organisational change is managed with the least disruption to services to patients and in accordance with the principle of avoiding compulsory redundancies wherever possible. The Trust will formally notify the trade unions of any proposed organisational changes and will undertake consultation with them in line with legal requirements
  - d) So as to ensure the staff side is able to fully participate in the process, which may require frequent meetings with management and in particular affected staff, the Trust will be expected to arrange paid time off facilities for agreed members of the Staff Side. This may over and above existing arrangements.

## CONSULTATION

### 8. Purpose of consultation

- 8.1 In accordance with legislation and the partnership working principles of the NHS, the



Trust commits itself to meaningful and appropriate consultation with trade unions and staff affected by the organisational change. The Trust is committed to reaching agreement on the way forward. However, there will be times when organisational change will need to proceed without a consensus being reached on all issues. The timing and extent of consultation will be proportionate to the degree of proposed change, the number of staff affected and the impact on individuals. Although there are specific timeframes for consultations, as specified in legislation, in some instances it may benefit both the directly affected Employees and the Trust to conclude the consultation earlier than identified. In this instance, the consultation period can be reduced where there is agreement between both parties. Please see point 10.2.

8.2 The purpose of the consultation meetings with trade unions and staff will be:

- a) to receive and where possible address any questions on the consultation document
- b) to consider any comments or views on the consultation document including any alternative proposals and costings (which the Trust shall as far as practicable make available) before determining any final decision to proceed
- c) to clarify any change processes and timeframes specific to the proposed organisational change exercise under discussion.

## **9. Consultation Procedure**

9.1 Managers shall prepare a consultation document on the proposed organisational change having gathered information to support the need for change and consulted with Workforce Relations (HR) as appropriate. Proposals for changes that affect staff should first be discussed informally between the line manager and the affected staff as soon as possible and the views and concerns of individuals taken into account as far as is reasonable practicable in considering decisions made and actions taken under this policy.

9.2 The consultation document may include details of the following, as appropriate, in line with the template documents in Appendix 5:

- a) current situation analysis including staffing structure
- b) impact on patient care
- c) impact on supplementary and ancillary services
- d) consideration of any relevant health and safety assessment
- e) the need for change and the rationale behind the change
- f) the options that have been considered
- g) the proposals for change including the proposed staffing structure(s) and any location change
- h) the financial, staffing and workload implications of the proposals
- i) the number and grades/bands of staff who may be at risk of redundancy as a result of the proposal
- j) proposed timescale for consultation and implementation of the proposed change
- k) the way in which staff will be selected for posts within the new structure or slotted in
- l) if necessary, the selection criteria for redundancy
- m) the measures to be taken to avoid compulsory redundancies which may include

- n) details of any suitable alternative employment which may exist
- o) details of how this information will be disseminated to staff
- p) description of the consultation process, including planned meetings, timetable, how staff and representatives can respond and the deadline
- q) the Equality Impact Assessment screening form and the full Equality Impact Assessment, where necessary, as well as any new and/or altered job descriptions and person specifications, where applicable, should be included as appendices
- r) Additionally, please refer to the [Trust Environmental Sustainability Strategy](#).

## **10. Time periods for consultation**

- 10.1 In all cases the Trust will allow sufficient time for meaningful consultation with staff and their representatives. In exceptional circumstances where changes need to be made very quickly, staff and the trade unions will be briefed immediately and the verbal briefing will be followed by a written brief (e.g. an outbreak of infection, major incidents).
- 10.2 For significant change, in all but very exceptional and explicitly justified circumstances, the minimum period of consultation will be 30 days, unless parties reach a mutually agreed shorter time scale if that is beneficial for all concerned. During this time, management will meet regularly with Staff Side, and will ensure that they are kept informed of developments as they occur. Staff Side will be given the opportunity to put forward the views of employees regarding all of the factors relating to any proposal for change and to discuss the proposals with management.
- 10.3 Should the decision to reduce the length of consultation be taken, as per 10.2, this will be confirmed in writing to Staff Side and all affected staff outlining how the decision was made and the reasons behind it.
- 10.4 Appendix 3 sets out a flowchart for consulting staff on major organisational change and Appendix 4 contains guidance documents for managing change and undertaking impact assessment.
- 10.5 In a collective redundancy scenario, consultation will continue for a period of no less than the statutory time scales:
  - a) where 20-99 redundancies are proposed across the Trust, consultation should commence at least 30 days before the first dismissal is to take effect
  - b) where 100 or more redundancies are proposed across the Trust then consultation should commence at least 45 days before the dismissal is to take effect.
- 10.6 Trade unions and staff may request additional information or an extension of time if this is necessary to enable them to understand and contribute to an informed discussion on the merits of the proposal. Such requests will not unreasonably be refused, and where they cannot be accommodated a reason will be given.

## **11. Consultation with the trade unions**

- 11.1 Early informal consultation with the trade unions is encouraged and should occur where possible. This is also known as pre-consultation. Meaningful pre-consultation often leads to an agreed shorter formal consultation time and greater staff satisfaction with the process.
- 11.2 Formal consultation with the trade unions will commence once any informal comments have been considered and the consultation document has been finalised. One week before the formal consultation paper is issued to staff, copies are to be sent to the Staff Side leads (Staff Side Chair, Vice Chair and Secretary) for comment. Therefore in their planning, managers should allow at least one week for Staff Side to comment on the formal consultation paper before it is launched. Consultation with trade unions will take the form of:
- a) ongoing discussions with the local accredited representatives
  - b) trade unions representing staff affected by the change should be invited to the first meeting with all affected staff and given reasonable notice to attend  
*(see the flowchart in appendix 3)*
- 11.3 In a redundancy scenario, the information provided in writing to the trade unions shall include the following:
- a) the numbers and descriptions of employees whom it is proposed to dismiss as redundant
  - b) the total number of employees of any such description employed by the Trust at the establishment in question (an establishment is where an employee reports to work).
  - c) the proposed method of selecting employees who may be dismissed
  - d) 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
  - e) the proposed method of calculating the amount of any redundancy payments to be made (over and above the statutory redundancy payment) to employees who may be dismissed.
- 11.4 During a period of change, management will ensure that trade unions are kept informed of developments and will meet with the trade unions as appropriate.

## **12. Consultation with individual staff**

- 12.1 A meeting will be held with all staff affected by the organisational change to announce the proposed change and explain the consultation process which will

follow.

- 12.2 Each member of staff affected by the organisational change will be provided with a copy of the consultation document. Staff who are absent from work for any reason including career breaks and maternity leave will be sent a copy of the consultation document at their home address/other suitable address so that they can participate in the consultation process.
- 12.3 Staff who could be at risk of redundancy as a result of the proposals will be informed that their employment could be at risk, at the start of the consultation process.
- 12.4 Each directly affected member of staff will be offered the opportunity of at least one individual meeting with their manager at which they have the right to be accompanied by a trade union representative or workplace colleague. Workforce Relations (HR) advisory support will also be offered.
- 12.5 At the meeting, each member of staff will be invited to comment and respond to the proposals, including how they may impact on their personal circumstances. It is recognised that staff may require time to respond and may not be able to do so at that particular meeting.
- 12.6 A written record of the individual meetings will be kept and provided to the employee and their trade union representative where applicable. The record will be a note of the main points discussed at the meeting, not verbatim notes.
- 12.7 Regular updates and frequently asked questions may be circulated to staff throughout the formal consultation period. Throughout this period staff should be encouraged to discuss their concerns and queries with their line manager and trade union representative.
- 12.8 In addition to the individual consultation meetings, staff can be kept informed by management, team meetings, trade union meetings, email and other written communication and information supplied by the trade unions.

### **13. End of consultation**

- 13.1 At the end of the consultation period the manager will give full consideration to all comments received from staff and the trade unions and will make a decision on the way forward. A written report will be provided to the staff and trade unions covering the change process to be followed and the timeframe. The report may include:
  - a) the reasons for the decision
  - b) equality impact assessment – this will be the screening form and, where the screening form has indicated so, the full EQIA
  - c) any relevant health and safety assessments
  - d) an explanation where the management decision is in conflict with the views of the trade unions representatives and staff or where the proposal has changed as a result of consultation

- e) identification of posts which are the same or substantially the same in the old and new structures
- f) arrangements for filling posts via Slotting In or Ringfencing
- g) selection arrangements for posts within the new structure
- h) measures that will be taken to avoid compulsory redundancies
- i) arrangements for seeking suitable alternative employment
- j) reference to the Trust's protection arrangements and how these will apply
- k) support for staff who are affected by the change, including career counselling and reasonable time off to seek other employment or undertake training
- l) proposed timescales for each stage of the change process.

#### **14. Redundancy selection**

- 14.1 Where redundancies are inevitable the Trust will set selection criteria for inclusion in the conclusions to consultation. The criteria used in selecting employees for redundancy will depend on the existing circumstances and the particular needs of the organisation at the time. These criteria should be objective, clearly defined, measurable and non discriminatory. Managers should seek advice from Workforce Relations (HR) on the selection criteria to be used to ensure the Trust is not open to legal challenge. Selection criteria will be discussed, and where possible agreed, with trade unions.
- 14.2 Criteria for selecting staff for redundancy will usually include any or all of the following:
- a) **Skills and Abilities.** These may be measured by, amongst other ways, a manager's reference, formal short-listing, interview and/or the use of assessment tests.
  - b) **Standards of Performance.** These should, again, be measured and applied consistently to all staff affected and might include formal appraisal results arising from performance review and formal disciplinary warnings for poor performance.
  - c) **Attendance and Disciplinary Record.** These will be assessed objectively taking into account a number of factors such as whether formal use of the appropriate employment procedures has been made together with the reason for absence, for instance, whether this was caused by a single period of long term ill health, disability or a number of short term incidents.
  - d) **Qualifications.** Formal qualifications and advanced skills may be considered as a criterion for selection but not in isolation from other factors such as ability and experience.

#### Voluntary redundancy or early retirement

- 14.3. In considering any measures to avoid compulsory redundancies, including requests for voluntary redundancy or early retirement, operational efficiency and service needs must be taken into consideration. If a member of staff volunteers for

redundancy/early retirement, approval of the request will be subject to the needs of the service and the cost implications. Care must be taken to ensure that decisions are based on sound organisational reasons and do not breach equality legislation.

- 14.4 The Trust may ask for volunteers for redundancy or early retirement. If so, letters inviting staff to apply for voluntary redundancy or early retirement will be issued to all those within the staff group at risk or from those within the same employment category, directorate or department as the staff group at risk where this would reduce the risk or incidence of compulsory redundancies. Compulsory redundancy is a measure of last resort.

## **15. Support for staff**

- 15.1 All staff affected by the organisational change will be encouraged to seek the advice and support of their trade union. Relevant support will be provided by the Trust and may include:

- a) help with the production of CVs/application forms (including assistance with NHS Jobs)
- b) help with preparation for interviews
- c) careers advice
- d) support in developing coping strategies and stress management, with support of the counselling service
- e) time to meet with recognised trade union representatives to discuss the change
- f) further assistance to staff who are at risk of redundancy will include reasonable time off to seek other employment or undertake training
- g) placement on the Trust's redeployment register
- h) access to skills development training delivered internally and through Trust designated providers. If courses in high demand are deemed appropriate to support the employee, they have the priority over staff who are not affected by organisational change.

- 15.2 Even after the change has taken place, the Trust acknowledges that staff may take some time to adjust to the change itself. Managers should remain available to staff to manage any issues that arise and support staff through the transition.

## **16. The process for filling posts in the new structure**

- 16.1 Once the consultation is completed and the structure is confirmed, there will be two stages in the process for filling posts in a new structure:

- a) **Stage One** takes place amongst the staff that are affected by the change. Posts in the new structure are filled either by Slotting-In or by Ringfencing
- b) **Stage Two** is where wider competition takes place for any posts that remain vacant in the new structure following Slotting In or Ringfencing. The post can then be opened up to access by any Staff At Risk for whom the post is considered suitable alternative employment or to open competition internally and

externally, in line with the normal recruitment process, where there are no such applicants.

- 16.2 The two stages may run in parallel but all reasonably practicable steps will be taken to avoid compulsory redundancies.
- 16.3 Job descriptions and person specifications will be produced for new posts. Jobs will be matched or evaluated in accordance with applicable national or local systems.
- 16.4 Selection criteria for all posts in the new structure (whether or not there is competition) must be non discriminatory, fair, objective, clearly defined and based on the skills and competency requirements of the post. The selection criteria must be made available with the consultation document.
- 16.5 Where it is possible to “slot” individual(s) directly into an equivalent post, they need not be placed at risk of redundancy. “Slotting-in” can take place provided the following criteria are met:

the post is within the Trust;

the new post has been assessed by the manager as 70% equivalent to the old post on the basis of present and proposed job descriptions, i.e. the content of the posts are of a like nature, require similar levels of skills and any new responsibilities would not necessitate a significant amount of retraining;

the member of staff meets the core selection criteria for the new post;

there are no other members of staff affected by the proposals who could be considered for slotting-in.

- 16.6 Staff who are able to apply for a post as part of competitive slotting in, will need not be placed at risk of redundancy, unless they are unsuccessful.
- 16.7 Staff who are offered posts during Stage One will be deemed to have been offered suitable alternative employment by the Trust. This will be confirmed in writing by the manager (this is on the basis that if staff are Slotted In or offered Ringfenced posts it will be assumed that the posts offered are suitable alternative employment and hence the consequences of refusing to accept these posts will be as per refusing suitable alternative employment).
- 16.8 Any member of staff who is not appointed to a post in the new structure will be offered post-interview feedback, coaching or training where appropriate and has the right to appeal via Appeals Procedure (Organisational Change) – see point 25.
- 16.9 Regulation 10 of the Maternity and Parental Leave Regulations 1999 states that employees on maternity leave are entitled to be offered suitable alternative employment before the end of their existing contracts, if such employment exists. This is effectively a form of positive discrimination so that the employee is entitled to the job automatically. This means there would be no need for an employee absent on maternity leave to compete for a suitable alternative post.
- 16.10 Please see Appendix 2 for further details.

## **17. Staff at Risk**

- 17.1 Where changes in staffing levels or skill mix have been proposed which lead to a reduction in the numbers of staff employed in particular grades, occupational groups or specialties, management will identify the positions, individual staff or pool of staff who could be at risk of redundancy as a result of the changes in the consultation paper.
- 17.2 The identification of being at risk of redundancy is not a notice of redundancy. More information is included in the Protocol for Staff at Risk (Appendix 2).
- 17.3 Staff who are not able to slot in to a post in the new structure will be confirmed at risk of redundancy, in line with Stage Three and Four in Protocol for Staff at Risk (Appendix 2). Staff should apply for any posts identified as Ringfenced opportunities.
- 17.3.1 These staff should be invited to a meeting with their manager and trade union representative or work colleague to:
- a) explain why the individual is at risk of redundancy
  - b) provide notice of redundancy as set out in section 20
  - c) explain the process to apply for any ringfenced posts
  - d) explain the process for redeployment and make arrangements for the employee to register with the Trust wide redeployment register
  - e) explain the arrangements for protection of pay and terms and conditions where applicable
  - f) offer support and assistance
  - g) discuss any other relevant issues and processes which may include providing a redundancy payment estimate if requested.
- 17.4 Following this meeting, the Staff At Risk will be given a letter within seven calendar days to confirm their at risk status and the key points discussed at the meeting including answers, wherever possible, to questions raised at the meeting for which there were no immediate answers available at the time.
- 17.5 There may be situations, for example where there is complete closure of a department, where it is necessary to give notice of redundancy in accordance with the contract of employment at the end of the consultation process.
- 17.6 Staff at Risk will be encouraged to register with NHS Jobs and apply for posts via that medium. They will also have access to Health Jobs and the London Redeployment Pool, if they wish to use it.
- 17.7 Staff At Risk will be given prior consideration for other posts that are or become vacant in the Trust during a specific organisational change and, subject to the arrangements regarding suitable alternative employment and trial periods, they will remain on the register until their last day of service.
- 17.8 In the case of significant change which spans a number of NHS organisations, the Trust will endeavour to reach an agreement with those organisations regarding the



establishment of job redeployment opportunities. The agreement will contain a commitment to equality of opportunity for all staff who will then have the same access to opportunities and vacant posts with any of the organisations.

## **18. Redundancy**

### **18.1 Definition of redundancy**

18.1.1 A member of staff may become redundant if they are dismissed and the reason for the dismissal is wholly or mainly due to:

- a) the fact that the Trust has ceased, or intends to cease, to carry on the activity for the purposes of which the individual was employed, or has ceased, or intends to cease, to carry out the activity in the place where the individual was employed  
**OR**
- b) the fact that the requirements of the Trust for staff to carry out work of a particular kind in the place where they were so employed, have ceased or diminished or are expected to cease or diminish.

18.2 The place of work referred to above should not be confused with the specific site or unit in which an individual works.

18.3 The Workforce Department is responsible for notifying the relevant Department (currently the Department for Business, Innovation and Skills (BIS)) in writing if the Trust proposes to make 20 or more staff redundant, within the terms of the legislation in force at the time. A copy of the notification form will be sent to the trade union representatives concerned. Advance notification to the relevant Department does not bind the Trust to make the employees redundant. Further information about the notification process is set out in a briefing note at Appendix 6.

18.4 For change with potential redundancies, managers are required to familiarise themselves with the process for establishment control. Further details are available on GTi.

## **19. Suitable alternative employment**

19.1 Suitable alternative employment is work within the Trust that is 70% similar terms, provides similar earnings, have similar status, it is within the same range of skills required as the current employment where the individual meets the essential criteria of the person specification (or could do so with a reasonable period of training) and does not involve unreasonable additional inconvenience. It is acknowledged that quantifying similarity can be ambiguous, therefore this measure of 70% similarity is only indicative. Staff at risk will be given prior consideration for suitable posts in line with their skills, experience and capabilities and where appropriate will receive protection of pay.

19.2 A post may be considered as suitable alternative employment if it is banded on the same band as the staff member's current post, or the next lower band. A post may

also be considered suitable alternative employment where a fixed term contract of 12 months and over is being offered.

- 19.3 Following identification of potentially suitable posts at Stage One or Stage Two, individual Staff At Risk will be offered the opportunity to apply for the position and be given a copy of the job description/person specification and a deadline of at least five working days within which to apply. In some circumstances e.g. annual leave and other types of leave, this period may be appropriately extended. During this period the individual may meet with the appropriate manager informally to discuss their interest.
- 19.4 If the individual is offered the post, this will be treated as an offer of suitable alternative employment and a trial period will apply.
- 19.5 Staff who unreasonably refuse an offer of suitable alternative employment may lose their right to a redundancy payment.

## **20. Trial periods and training**

- 20.1 A trial period will only apply to Staff At Risk and where a formal offer of suitable alternative employment has been made.
- 20.2 The purpose of a trial period is for both the manager and the individual to assess the suitability of the post as alternative employment.
- 20.3 Where staff have the potential ability but not the immediate experience to undertake full duties of the role, they will be provided with appropriate skills development plan or training. This will be provided when it is reasonable, practical and cost effective and where the member of staff demonstrates a willingness to learn and can apply the new skills within an agreed timeframe.
- 20.4 The trial period will normally last for four weeks but may be extended by mutual agreement where a member of staff requires additional training and development.
- 20.5 If the trial period is extended beyond the notice period, the notice period will be extended to reflect this.
- 20.6 If the trial period is unsuccessful, as determined by the individual and/or the manager concerned, the employee may be treated as having been dismissed for redundancy on the day on which his/her previous contract ended (i.e. the notice period and the trial period will be taken as having run concurrently). Until the end of their notice period Staff at Risk will be considered for other suitable alternative employment if available which will be subject to the same arrangements including a trial period.

## **21. Change of location**

- 21.1 If, as a result of organisational change, there is a requirement to move staff from their normal place of work to another location within the Trust and this results in increased travel costs to and from work, or if acceptance of alternative employment within the Trust leads to a loss of earnings, reasonable arrangements for protection of salary or excess

travel costs will be agreed. Sensitivity will also be shown to personal circumstances where acceptance of a new post may necessitate a change in hours of work, shifts or location.

## **22. Redundancy arrangements**

22.1 A member of staff will have their contract of employment terminated on the grounds of redundancy if no suitable alternative employment can be found or if a trial period is unsuccessful.

22.2 The terms under which a redundancy payment and/or early retirement benefit are payable are summarised below. To qualify for a redundancy payment/early retirement benefit the individual must have:

- a) a contract of employment with the Trust; and
- b) at least 2 years' (104 weeks) Continuous Service within the NHS
- c) a redundancy payment takes the form of a lump sum, dependent on the employee's Reckonable Service at the date of termination of employment
- d) the lump sum is calculated on the basis of one month's pay for each complete 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
- e) early retirement on the grounds of redundancy is available, subject to the employee:
- f) being a member of the NHS Pension Scheme;
- g) having at least 2 years' Continuous Service and 2 years' pensionable membership; and
- h) having reached the minimum pension age in accordance with the relevant NHS Pension Scheme arrangements.
- i) Some staff may be subject to locally-agreed contractual arrangements in respect of redundancy which will need to be honoured.

22.3 Staff will not be entitled to redundancy payments/early retirement on the grounds of redundancy if they:

- a) are dismissed for reasons of misconduct
- b) 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
- c) unreasonably refuse to accept suitable alternative employment with the Trust or another NHS employer
- d) leave their employment before expiry of notice, except if they are being released early

- e) are offered a renewal of contract with the substitution of a new employer for the Trust.
- 22.4 Staff whose employment is subject to TUPE or Retention of Employment Model (ROE) transfer will not be redundant and therefore will not be entitled to redundancy payments/early retirement on the grounds of redundancy.
- 22.5 For further information please refer to Part 3, 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 Workforce Department or your trade union.
- 22.6 The manager will liaise with the Workforce Department in order to obtain details of redundancy entitlements and other aspects of the redundancy process. The manager will provide, in writing, the individual and their trade union representative with the following details:
- a) the number of weeks' notice, in accordance with the contractual notice period
  - b) the effective date of the redundancy, which will also be the last day of service
  - c) the number of days' outstanding annual leave, where applicable, to be paid in lieu
  - d) the method of calculation and amount of redundancy payment/enhanced pension benefits that will be paid, where applicable
  - e) what efforts will be made to assist the individual in seeking suitable alternative employment during the notice period
  - f) what support is offered during the notice period e.g. help with job search, CV and interview preparation
  - g) what work the individual will be expected to undertake during their notice period
  - h) that reasonable time off with pay will be given to seek and prepare for alternative work
  - i) 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
  - j) the right of appeal against selection for redundancy or the terms of the redundancy.

## **23. Protection arrangements**

- 23.1 The Protection Protocol (Appendix 1) is in place in order to support staff who, as a result of organisational change, are required to move to a new post which would entail a reduction of earnings and certain terms and conditions of employment.
- 23.2 These arrangements provide for:

- a) **Short term protection** of certain conditions of employment where they have been a regular requirement of the previous post, e.g. shift work and hours of work.
  - b) **Long term protection** of basic pay, including high cost area supplement.
- 23.3 Pay protection will apply for the agreed periods as set out in the Protection Protocol or until the member of staff moves voluntarily to a new post within the Trust.
- 24. Appeals, complaints and joint agreements**
- 24.1 Appeals against the selection criteria for redundancy, the decision to dismiss an employee by reason of redundancy, or for a variation to contract will be heard in accordance with the Trust's Appeals Procedure (Organisational Change) as outlined below. The decision of the Appeal panel will be final and there will be no further opportunity for recourse.
- 26. Appeals Procedure (Organisational Change)**
- 25.1 This section lays down the procedure to be followed for appeals against decisions made under the Organisational Change Procedure.
- 25.2 Where more than one member of staff is affected by the same decision as set out above and would like to appeal, they can do so collectively. In such circumstances, the group of staff will be required to select a representative who will act on behalf of the group and follow the steps outlined below. The staff representative will be responsible for communicating all decisions to the rest of the group.
- 25.3 A member of staff who wishes to appeal should write to the appropriate manager within 14 calendar days of receiving the letter confirming the outcome of the Organisational Change, stating the grounds on which they are appealing the decision. Outcome letters will state the person to whom an appeal should be addressed.
- 25.4 The receipt of an appeal letter will be confirmed within 7 calendar days. Whenever possible, an appeal will normally be heard within 28 calendar days. The member of staff is informed of the arrangements for the appeal meeting at least seven days before the date of the meeting. The hearing will, whenever practicable, be at mutually convenient time/date for all those involved. The appeal hearing procedure flowchart can be found at appendix 7.
- 25.5 A Workforce Relations Representative (HR) will act as advisor to the appeal hearing. Members of staff have the right to be accompanied by a trade union representative, colleague or friend.
- 25.6 The Chair will ensure that the relevant documentation is available to everyone involved not less than 7 calendar days before the appeal hearing. The manager who took the original decision normally provides a written response to the grounds for appeal. .

- 25.7 If a member of staff fails to attend an appeal meeting, without appropriate notification or good reason, the member of staff will be deemed to have withdrawn their case.
- 25.8 A record of the proceedings will be made and kept on file. The final decision will be notified to the employee and representative within 7 calendar days of the appeal hearing.
- 25.9 Complaints about the misapplication of the Change Management Policy and Procedure which are not covered in paragraph 24.1 will be dealt with in accordance with the Trust's Grievance Procedure. Where a grievance is raised during the consultation period, the processes will run concurrently.

## **26. Interpretation, Variation and Termination**

- 26.1 Any questions as to the interpretation of this policy and protocols shall be referred to the Associate Director of Workforce in the first instance and, if not agreed, to the Trust Joint Staff Committee.
- 26.2 Management and Staff Side will jointly review the effectiveness of the policy at appropriate intervals. There shall be no variation to this policy except by the joint agreement through the Policy Sub Group of the Trust Joint Staff Committee.

## **27. Associated local documentation**

- 27.1 The associated documents are listed as follows:
- a) Appendix 1: Protection Protocol
  - b) Appendix 2: Protocol for Staff at Risk
  - c) Appendix 3: Trust Change Management Consultation Flowchart
  - d) Appendix 4: Guidance for managers Template documents, and Checklist on consultation requirements (major and minor changes)
  - e) Appendix 5: Template for staff consultation paper
  - f) Appendix 6: Notification to the Department for Business, Innovation and Skills
  - g) Appendix 7: Procedure at appeal meeting
- 27.2 Delegated authority to approve the supporting documents is listed below:

<b>Document</b>	<b>Owner</b>	<b>Approval Authority</b>
Appendix 1: Protection Protocol	Director of Workforce	Joint Policy Forum
Appendix 2: Protocol for Staff at Risk	Director of Workforce	Joint Policy Forum
Appendix 3: Trust Change Management Consultation Flowchart	Director of Workforce	Joint Policy Forum
Appendix 4: Guidance for managers	Director of Workforce	Joint Policy Forum
Appendix 5: Template Staff Consultation Paper	Director of Workforce	Joint Policy Forum
Appendix 6: Notification to BiS	Director of Workforce	Joint Policy Forum
Appendix 7 : Procedure at Appeal Hearing	Director of Workforce	Joint Policy Forum

## **Appendix 1**

### **PROTECTION PROTOCOL**

#### **1. INTRODUCTION AND SCOPE**

- 1.1 This document sets out the Trust's protocol on protection and is to be used purely for organisational change and not for issues arising from individual sickness, capability or disciplinary outcomes or for example other changes instigated by the individual.
- 1.2 It applies to all Trust employees with the exception of doctors and dentists and the most senior managers who are not covered by Agenda for Change. It will not be applied retrospectively to any staff currently receiving protection under existing arrangements. It will also not apply to changes made as a result of national agreements.
- 1.3 There are two types of protection: long term and short term. Where there are allowances not appearing on the list for short or long term protection, any such allowance will not be protected.

#### **2 LONG-TERM PROTECTION**

- 2.1 Where a member of staff is moved to another post as a result of organisational change downgrading applies.
- 2.2 The “long-term protectable earnings” covered by long-term protection are:
- Basic pay (salary or wage due in respect of basic hours worked by the individual concerned within their standard working week)
  - High cost area supplement
- 2.3 The period for long-term protection is based on length of service. An employee is entitled to have their “long-term protectable earnings” maintained on a mark time basis in accordance with the following schedule:

LENGTH OF RECKONABLE NHS SERVICE	PROTECTION PERIOD
Under 1 year	Nil
1 year and less than 2 years	6 months
2 years and less than 4 years	2 years
4 years +	3 years

### **3. CONDITIONS FOR LONG-TERM PROTECTION**

- 3.1 There will be no automatic right to a lower graded post with long term protection as an alternative to redundancy. The Director or Head of Department will have the option of offering protection in accordance with the above schedule.
- 3.2 In each case the Trust will take into account the effect of placing an individual in a lower graded post and will consider whether the new post is suitable alternative employment within the terms of the Trust’s policy.
- 3.3 Any earnings over and above basic pay derived from work in the new post will be paid at the rate appropriate for the new post.
- 3.4 Protection will continue until whichever of the following occurs first:
- The employee leaves the service of the Trust
  - The period of protection expires
  - The employee is appointed to a post in which the normal basic pay is equal to or exceeds the protected pay
  - The employee is appointed to a secondment or a post in which the normal basic pay is equal to or exceeds the protected pay. Should the employee return to their substantive post before the protection was originally due to finish, the protection will be reinstated and run until the original end date.
  - The employee moves on his/her application to a post with basic pay lower than that of the new post
  - The basic pay of the new post becomes equal to or greater than the protected basic pay



- 3.5 All staff on long pay protection will be expected to continue to actively seek employment within the Trust in a post in which the basic pay is equal to or exceeds the protected pay.

#### **4. SHORT TERM PROTECTION – WHETHER OR NOT DOWNGRADING APPLIES**

- 4.1 Up to one year's short term protection shall apply where there are changes to patterns of work that affect earnings as set out below. Earnings in the new arrangements will be offset against the amount protected, i.e. they will not be less than those previously earned but could be more on a month by month basis (see paragraph 14).
- 4.2 The short term protectable earnings covered by short term protection are:
- Contractual standby or unsocial hours allowances
- 4.3 Short-term protection will not include protection of payments made that are not part of the Trust's terms and conditions, e.g. payments made as part of funding from another organisation over which the Trust has not control.
- 4.4 The amount of short-term protectable earnings in each individual case will be the weekly/monthly average of the actual earnings of the individual calculated over a period of three months (usually the three months immediately preceding the change).
- 4.5 The period of short-term protection will be based on length of reckonable service. An employee will be entitled to have their "short-term protectable earnings" maintained on a "mark-time" basis<sup>1</sup> in accordance with the following table:

SERVICE	PROTECTION PERIOD
1 up to 2 years	4 months
2 up to 3 years	6 months
3 up to 4 years	8 months
4 up to 5 years	10 months
5 years and over	12 months

- 4.6 In any event the period of protection will not be longer than the period for which the protectable allowances have been paid.

#### **5. CONDITIONS FOR SHORT-TERM PROTECTION**

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<sup>1</sup> Mark time basis: the cash value of the former basic salary is preserved, but any subsequent increments or general increases applicable to the former or the new grade are not applied to the new basic salary, i.e. the individual will receive no further increments or annual pay awards whilst protected

- 5.1 Earnings in the new post will be offset against protectable earnings. If for any particular pay period the earnings in the new post exceed the protectable earnings, protection of earnings is not applied and earnings in the new post are paid in full for that particular pay period.
- 5.2 When calculating earnings in the new post, the rates used for calculating payments in respect of overtime, shift work and other additional duties will be those applicable for the new post.
- 5.3 Short-term protection of earnings is conditional on the employee undertaking any overtime, shift work or additional duties which may be required up to and above the level at which the earnings in the new post equal the protected earnings.

## **6. PENSIONS**

- 6.1 For advice and guidance on pension issues at the time of the change, employees are advised to contact the relevant Pensions Agency. For NHS Pension Scheme, please go to [NHS Pension Scheme Website](#).

## **7. FURTHER DOWNGRADING**

- 7.1 Staff who are receiving long term protection of earnings and whose post is affected by further organisational change during the period of protection may have the option of redundancy as an alternative to a further downgrading.
- 7.2 In determining the appropriate outcome, the Trust will take into account the financial effects of redundancy, both on the Trust and on the individual.

## **8. APPOINTMENT TO HIGHER GRADE**

- 8.1 All protection is conditional on the employee accepting any subsequent offer of another suitable post with the Trust which attracts a basic wage or salary in excess of the basic wage or salary applying to the new post.

## **9. INTERACTION BETWEEN LONG AND SHORT TERM PROTECTION**

- 9.1 Short and long term protection will, where applicable, run concurrently. In such cases, the individual will receive whichever is the better of the two arrangements.

## **10. RECKONABLE SERVICE**

- 10.1 For the purposes of protection, reckonable NHS service is calculated on the basis of the NHS service up to the date of the change, and means continuous full time or part time employment with the present or any previous NHS employer. 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 (in line with section 16 of the AFC Terms and Conditions Handbook).

## **11. COSTS ASSOCIATED WITH PROTECTION AND REDEPLOYMENT OF STAFF**

- 11.1 Where a member of staff is redeployed to another department as part of a change process and is also subject to protected pay, the original department displacing the individual will be responsible for the protection costs, not the receiving department. For example if a Band 7 employee is redeployed into a Band 6 post in another department, the receiving department will pay the Band 6 salary and the substantive department will be responsible for the protected pay up to Band 7.

## **Appendix 2**

### **Protocol for Staff at Risk**

#### **1. Introduction**

- 1.1 This protocol should be read in conjunction with the Organisational Change Policy which provides the detail of the rights and responsibilities of managers and employee embarking on a change programme. This protocol relates specifically to the process that will be followed in identifying, and managing those members of staff who are formally at risk of redundancy, or who have been displaced due to re-organisation within their department.
- 1.2 Displaced staff on the redeployment register who are at risk of redundancy, will receive priority consideration when applying for jobs within the Trust before recruitment advertising and selection commences; it is possible that where there are no other suitable members of staff on the redeployment register individuals may be 'slotted in to' suitable positions that arise.

#### **2. Process**

##### **2.1 During consultation**

- 2.1.1 In line with the Organisational Change policy, and as part of consultation process, affected staff are informed (by their manager/Workforce Relations Representative (HR)) of the organisational change proposed via the consultation paper. Staff will be informed of the process that will be followed should the outcome of the consultation result in them being displaced (see end of consultation outcomes Stages three and four below). Staff can request an individual meeting as part of the consultation.
- 2.1.2 The manager is responsible for identifying in conjunction with the relevant HR Business Partner, the staff whose employment could be at risk of redundancy (Stages Three and Four below) to include in the consultation process.
- 2.1.3 During this time, the line manager and the Senior HR Adviser will keep local vacancies under review, and consider holding vacancies that may be relevant to potentially displaced staff, should the proposals be implemented.

##### **2.2 End of consultation**

- 2.2.1 At the end of the consultation process, a decision will be taken on the proposal that was subject to consultation.
- 2.2.2 Staff that were identified in the consultation paper as affected by the changes, will be informed of the outcome that will be applicable to them as below.

#### **3. STAGE ONE**

##### **3.1 Post remains unchanged**

- 3.1.1 Those staff whose post remains unchanged following the consultation process will be informed of this in writing by the line manager.

### **3.2 Slotting In**

- 3.2.1 Staff whose new post in the new staffing or management structure is 70% similar to their current post and where that individual is the only contender for that post, will be slotted in. This will be confirmed in writing by the manager.

## **4. STAGE TWO**

### **4.1 Competitive slotting in**

- 4.1.1 Staff where the new post in the new staffing or management structure is 70% similar to their current post, and where there are fewer posts than people, will take part in a selection exercise to be slotted in to these roles. The outcome of the competitive slotting in will be confirmed in writing by the manager.

## **5. STAGE THREE**

### **5.1 Staff have opportunity to apply for ring fenced posts**

- 5.1.1 Those staff who cannot be slotted in directly or through competitive slotting in, but who have the opportunity to compete for suitable alternative employment as part of the implementation of the proposal, will be confirmed as formally at risk, and will have priority to compete for "ring fenced" posts within the new structure.
- 5.1.2 These individuals will receive a letter confirming the arrangements for this from their manager.
- 5.1.3 The line manager will inform the Senior HR Adviser supporting the consultation process of these individuals so that their At Risk status can be confirmed.
- 5.1.4 Following the internal recruitment process, those staff who are offered a ring fenced post will have this confirmed in writing by the manager. Staff who are offered a ring fenced post, will be deemed to have been offered suitable alternative employment in line with the Trust Organisational Change policy.
- 5.1.5 The line manager will inform Workforce Relations (HR) or the Local Employment Coordinator of the staff that are no longer at risk, so that they are removed from the Redeployment Register.

## **6. STAGE FOUR**

### **6.1 Displaced staff**

- 6.1.1 Staff who have been unsuccessful in competition for ring fenced posts, or do not have this opportunity, will be met with in line with the Organisational Change policy to confirm the arrangements for the Trust (and potentially sector) wide redeployment register. This will be confirmed in writing by the line manager. If appropriate, the individual will be issued with formal notice of redundancy at this meeting.
- 6.1.2 The line manager will inform the Senior HR Adviser supporting the consultation process that these individuals are at risk of redundancy, or have been issued with formal notice of redundancy, and have been displaced from the new

structure. These individuals will be recorded at Stage Three on the risk register to go on to the Trust wide redeployment register.

- 6.1.3 The Line Manager will give the letter in Appendix 2, Attachment 1 to those at Stage Three, to advise how to register correctly onto the redeployment register. The staff member will complete the online application form for the redeployment register.
- 6.1.4 A skills analysis is conducted by Local Employment Co-ordinator regarding each displaced person via the on-line application form which the displaced individual should complete within 7 calendar days of receiving an email prompting them to do so from the Local Employment Coordinator:
  - a) Transferable and specific skills
  - b) Previous experience
  - c) Qualifications and registrations
- 6.1.5 Displaced people will be added to the Redeployment Register by Local Employment Co-ordinator including information from the skills analysis
- 6.1.6 The Local Employment Co-ordinator is available and pro-actively offer support and referrals to the Learning and Careers Service. This service can offer help with:
  - a) CV and application writing
  - b) Secondment and NHS / KHP wide opportunities
  - c) Interview skills training
  - d) Careers advice – job searching
  - e) NHS jobs redeployment opportunities
  - f) Skills development training
- 6.1.7 The Local Employment Co-ordinator and a Recruitment Manager will meet frequently to assess registered candidates against available vacancies and consider newly-displaced staff from all areas. This way they determine who is suitable to be offered an interview/ assessment. This meeting will be convened as necessary according to the number of staff requiring placement and the number of new vacancies.
- 6.1.8 Individuals may also express an interest in advertised posts by contacting the recruitment team and identifying themselves as a displaced member of staff. For example a displaced employee may wish to apply for a post at a lower band than their substantive band e.g. from a band 6 to a band 4. A move to anything more than one band lower would normally not be designated suitable alternative employment by the Trust. In such cases where a post has been identified as SAE by the Trust for a displaced employee they will take priority over those displaced staff who have expressed an interest in a lower banded post.
- 6.1.9 When a match or matches have been identified, the individual's details are forwarded to the hiring manager for consideration. Providing a match (given the principles of the Organisational Change Policy) is agreed then a selection process takes place to determine the successful candidate. A selection process

takes place even if only one person is found to be suitable in principle to ensure that they meet the requirements of the job.

- 6.1.10 If such posts have attracted external applicants, or internal applicants from staff who are not at risk, the displaced staff will be given priority over other applicants. All appointments will be for an initial trial period (which is a minimum of four weeks in line with the Trust Organisational Change policy) to assess suitability.
- 6.1.11 Staff will be placed on the redeployment register for a period no less than their contractual or statutory notice period (whichever is the greater) subject to a maximum period of 12 weeks. There may be times when a member of staff will remain on the redeployment register for a period of time beyond the required contractual notice period. This will include circumstances where the Trust has identified suitable alternative employment opportunities becoming available beyond the date when the employee's contractual notice period expires. The employee will be given the opportunity to be considered for SAE as an alternative to redundancy. Such an extension will be for a reasonable period of time and will not be made where there are no known forthcoming vacancies.

## **6.2 Selection and Interview**

- 6.2.1 If either a redeployment candidate applies for a post or is matched with one by the matching panel and meets the essential criteria for a post, it will be deemed to be potentially "suitable" and the redeployment candidate(s) will be automatically shortlisted for the post. A selection interview will be set up for redeployment candidate(s) who are shortlisted.
- 6.2.2 Panel members will assess redeployment candidates in terms of whether or not they are appointable, i.e. does the candidate at interview (together with other evidence obtained from their CV, application form and any selection test(s)) demonstrate meeting the essential criteria for the post.
- 6.2.3 In assessing the suitability of the candidate for the post, the panel will need to consider how far an individual's knowledge, skills and experience match the job description for the vacant post. If there are gaps, the panel is required to assess if training can bridge these gaps within a reasonable period and consider whether this is a viable option. The panel will need to be able to demonstrate that the decision to appoint or not to appoint is reasonable in the circumstances.
- 6.2.4 If a redeployment candidate from within GSTT is being interviewed for a position at one band lower than that of their present (at risk) post then the pay protection element of the salary will be paid out of the budget from which the candidate is being redeployed, i.e. the hiring department will only have to meet the costs of the position they are advertising and nothing further.
- 6.2.5 If it is deemed that the redeployment candidate will require a significant degree of training (either formal or informal "on the job") to support them in their new role, then the hiring department may request an internal transfer of budget from the redeploying department to assist in paying for this. This will be subject to a "value for money" review by the relevant budget holders.
- 6.2.6 Where two or more redeployment candidates are considered appointable to the post, the selection panel shall appoint the candidate who in its judgement is the

best/better candidate. Where a sole redeployment candidate meets the essential criteria for a post it will be deemed to be potentially "suitable" and they will be appointed to it.

6.2.7 Where a redeployment candidate is not considered appointable, clear written reasons relating to the job description need to be given to the Recruitment Manager dealing with the vacancy. The feedback will be given to the redeployment candidate by the Chair of the panel or Chair's nominee.

6.2.8 In circumstances where a redeployment candidate is interviewed at the same time as candidates who are not on the redeployment register, the redeployment candidate will be appointed in preference to non-redeployment candidate(s) providing the selection panel determines s/he is appointable to the post whether or not the redeployment candidate is considered to be the best of all those interviewed.

### **6.3 Obligations of the redeployment candidate**

6.3.1 If the employee fails to make any necessary application or to present themselves at interview, the employee shall be deemed to have refused suitable alternative employment. This will also be the case if the employee makes it plain that they are not interested in the post for which they are being interviewed, either explicitly or by clearly not engaging in the redeployment process with appropriate application.

6.3.2 Employees shall not be entitled to redundancy payments if they unreasonably refuse to accept or apply for suitable alternative employment with the same or another NHS employer. They will instead be deemed to have resigned.

### **6.4 Minimum 4-week trial period**

6.4.1 As soon as is practically possible the appointed redeployment candidate should move across to fill the vacancy and commence a minimum 4-week trial. If it is deemed that the postholder requires a large degree of training in order to be successful, then a trial period of up to 3 months may be agreed by mutual consent, following a discussion with the Local Employment Coordinator.

6.4.2 If the trial period will extend beyond the redeployment candidate's notice period, then the notice period will be formally extended to reflect this.

6.4.3 The consultation lead manager completes and submits a change form to move the redeployment candidate into the new role. The post being vacated is kept open, but unfilled pending the outcome of the trial period.

6.4.4 Every week the appointing line manager meets briefly with the redeployment candidate to give feedback and assess progress of the trial period. Any training needs are to be identified during these meetings. The new line manager should not agree annual leave or special leave requests which fall outside the trial period without consulting with the former line manager. This is because if unsuccessful, the employee will return to their former position to work out their notice period.



- 6.4.5 If successful, at the end of the trial period the appointing line manager meets with the redeployment candidate and confirms their appointment. The former line manager passes over all personnel related files such as annual leave card, sick record, etc. and closes the vacated position on ESR to realise the saving.
- 6.4.6 If the trial period is not deemed to be a success then the appointing manager must provide a written statement of reasons to the Local Employment Coordinator. The Local Employment Coordinator will consult with the broader Workforce Relations team and may reject the reasons if not sufficiently robust, i.e. they may refuse to allow the appointing line manager to reject the redeployment candidate.
- 6.5.7 If the trial period is universally agreed to be unsuccessful (at any point during the trial) then the new line manager will complete a change form to return the redeployment candidate to their former position.
- 6.5.8 Once it has become clear that the trial has been unsuccessful, the redeployment candidate's details will be re-submitted to the redeployment matching panel for a further attempt at matching. If the notice period has not yet expired then this will again be iterative until either a suitable position is found or the notice period expires, whichever is the sooner.

***Attachments:***

- a) *Attachment 1:* Letter for displaced staff to be given to the employee by the line manager at a 1:1 consultation meeting
- b) *Attachment 2:* Registration Form for NHS Jobs website "Restricted Jobs" and GSTT Redeployment Register

## **Attachment 1: Letter for employee to be given at 1:1 consultation**

### **Letter for displaced staff to be given to the employee by the line manager at a 1:1 consultation meeting.**

**INSERT DATE**

*Dear [insert forename],*

The Trust recognises that this can be a worrying time for you and will support you throughout the process in a number of ways. A Redeployment Register has been created to help match those members of staff going through redeployment, with new vacancies in the Trust. In addition the NHS Jobs website ([www.jobs.nhs.uk](http://www.jobs.nhs.uk)) has a facility which allows Hospital Trusts to advertise their jobs for NHS members of staff going through redeployment, so that only they can apply in the first instance.

Additionally, we can offer the service of “one to one” guidance on using online application forms, the NHS Jobs website, our own website, NHS careers guidance, application personal statement writing skills and interview techniques (including mock interviews) if you feel this may be of benefit to you. You can contact us on 020 7188 9349.

You will need to complete the following steps in order to register:

#### **1. (Trust Process)**

- We have a restricted process for applicants who are going through redeployment within our own Trust. Internal redeployment candidates receive priority consideration in this process.
- You will need to register by completing a Trust Application Form on the dedicated consultation website, details of which will be given to you by the Local Employment Coordinator. This will then be used to match you with any jobs as they become vacant prior to them being available to other candidates who are not going through the redeployment process.
- If your skills match the initial search criteria, your completed Application Form will be sent to the Recruiting Manager to go through the short listing process before the post is advertised.
- You can also access the current jobs vacancies on the Guy's and St Thomas' website at <http://jobs.gstt.nhs.uk> for any jobs which are already open.
- Your manager will be meeting with you on a regular basis to review your current situation and to help you with any queries you have.

#### **2. (NHS Process)**

- The attached registration form (Appendix 2, Attachment 2) also asks for your preferred email address for use on the NHS Jobs website. This email address will be used to alert you of any new jobs being advertised that match your job search criteria. This form should be returned to your Workforce Relations Representative (HR) as soon as possible.

- We will then take the necessary action to ensure that the website recognises that you are a candidate who is eligible to apply for 'restricted jobs'. We will send an email to you to confirm once we have done this. You will then be sent an automated email from the NHS Jobs website stating that you have been recognised as a redeployment candidate on the website and that your activities on the website will be recorded and available to us.
- You will then need to go on to the website and register for an account with the preferred email address.
- Once you have a registered account, you can then set up jobs by email search, which allows you to set criteria for searches, such as salary, location etc. It is possible to set up a maximum of 5 searches at once.

If you have any queries or feel that anything needs clarifying please do not hesitate to contact us on 020 7188 9349.

**Rachel Harrod** - Local Employment Coordinator, Recruitment Centre – Workforce Department

## Attachment 2: Redeployment Register

Name:	
Date:	
Job Title:	
AfC Band:	
Department & Division	
Line Manager:	
Workforce Relations Rep:	
Date of meeting:	
Reason for redeployment	<input type="checkbox"/> Ill health <input type="checkbox"/> organisational change <input type="checkbox"/> end of fixed term contract <input type="checkbox"/> action short of dismissal
Preferred Email Address (for use on the NHS Jobs website)	
Preferred method of communication with the Trust e.g. email, tel. no. or mobile.	
Band of redeployment roles (in line with protection policy)	

In order for us to match candidates more efficiently to internal 'restricted vacancies' please would you answer the questions below, by ticking the appropriate boxes.

1. I have the following qualifications:

NVQ or equivalent ☐

GCSE/O Level or equivalent ☐

AS Level/A Level or equivalent ☐

HND/HNC or equivalent ☐

Degree or equivalent ☐

Postgraduate Degree or equivalent ☐

Professional Registration ☐

Other (Please specify) ☐.....

2. I would like to be considered for positions in the following areas of work:

Administrative Services ☐

Healthcare Science Services ☐

Medical & Dental ☐

Nursing & Midwifery ☐

Senior Management ☐

Support Services ☐

Allied Health Professionals ☐

3. Hours: Full Time ☐

Part Time ☐

4. Do you have a disability which we need to make any adjustments or adaptations for or restrictions which OH have advised on?

Yes ☐

No ☐

If yes please specify below:

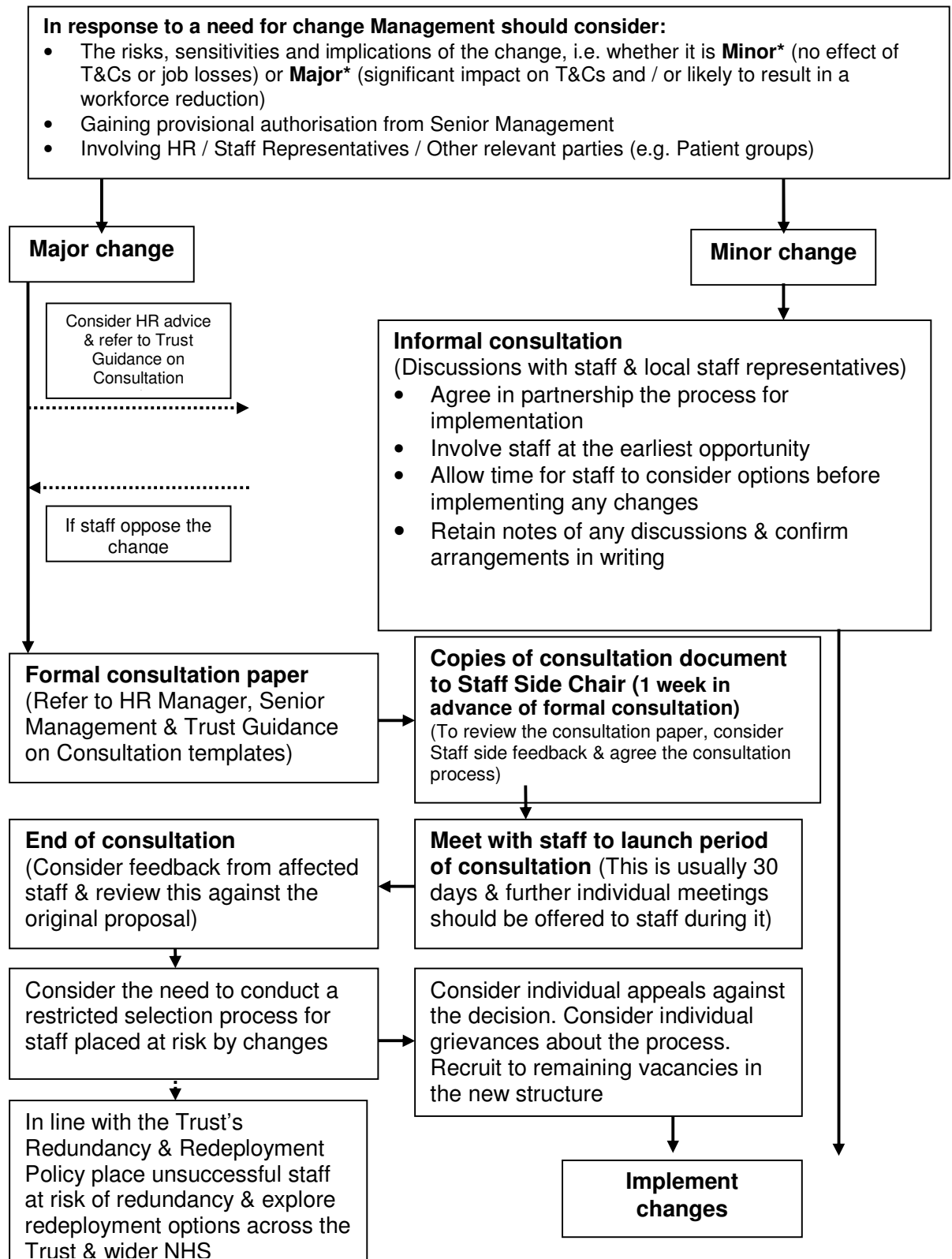
5. Further comments

Signed: ..... Date:.....

*Once completed, the form should be forwarded onto Rachel Harrod, Local Employment Co-ordinator*

*Please note that the attached process cannot be implemented until your form has been received by the Workforce Department.*

### Appendix 3: Trust Change Management Consultation Flowchart



## Appendix 4: Checklist for managers on consultation – Guidance only

### 1 Types of Change

There are various forms and levels of local and organisational change, some of which may be implemented following informal consultation within individuals, whereas other forms of change may require a more formal process of consultation. Early involvement of staff and staff-side representatives and partnership working is encouraged in the implementation of change. These guidelines and templates are intended to act as best principle guidance for management to follow and should be used in conjunction with Trust policies and protocols on organisational change.

### 2 Minor/Intermediate Change:

2.1 Minor change may refer to a situation where there is a proposed change to a department or defined group of staff which does not involve a re-organisation of posts or fundamentally affect terms and conditions.

2.2 Intermediate change is where there is a re-organisation of posts or responsibilities within a department or ward which does not fundamentally affect terms and conditions or involve job losses.

2.3 Possible examples of change:

- Change of department location (internal rotations or relocation of wards/sites);
- Change of speciality or systems – i.e. increasing number of beds on unit with different specialty or introduction of new systems which may require additional training;
- Change of line manager or reporting structure;
- Change of working practices including normal day to day variations in staffing requirements and change of practice for out of hours work – where staff are already working out of normal hours;
- Disestablishing posts and changing skill mix where vacancies exist – using available budget to create new posts or make financial savings;
- Adding to agreed duties;
- Reduction in agency staff (which has a direct impact on team or workload).

2.4 Where a change is classified as minor or intermediate it should involve **informal consultation** with staff. Discussions and staff involvement should include details of the need for changes and the proposed changes, how staff will be affected, potential benefits and where possible notice given of when the change will take effect. This could take the form of regular team meetings, one-to-one meetings, away days or specific meetings to discuss the change. The aim should be agreement in partnership with regards to the level of change and the process for implementation. There is no need to have a formal consultation paper or a set period of consultation, however, managers where possible are encouraged to involve staff at the earliest opportunity, and allow time for staff to consider options before implementing any changes. Notes of meetings should be kept and where appropriate the implementation of the informal consultation should be confirmed in writing (email or letter). It would not be necessary for Workforce Relations or Staff

Side / local representatives to be involved in informal discussions, but advice and representation could be sought where appropriate.

- 2.5 When consulting staff, managers should take into account any staff who may be absent due to annual leave, maternity leave, sick leave or on secondment and also consider other staff or departments who may be affected by local changes.

### 3. Major Change:

- 3.1 Major change refers to any change that may have a more significant impact on individuals with regards to terms and conditions of employment or where changes are likely to result in a workforce reduction (redeployment or redundancy).

- 3.2 This form of change requires both informal discussions with staff/staff-side at the earliest opportunity (as with minor/intermediate change) and a **formal consultation** in line with statutory requirements and Trust policy.

- 3.3 Possible examples of major change:

- Restructures in a department impacting on the nature of staff responsibilities, and/or grades;
- Changing working hours – e.g. working traditionally 9-5 to evening/weekend work;
- Changes that would invoke usage of the pay protection policy;
- The cessation of the provision of an activity or closure of a department or ward and staff redeployment.

- 3.4 Where change is classed as major – Workforce Relations (HR) and Staff Side should be involved at the earliest opportunity to ensure best practice and policies are correctly followed.

- 3.5 Managers are also encouraged to use template documents to support the implementation of change which include:

- Template consultation document
- Template for minutes of meetings
- Managing change checklist, which draws attention to the need to liaise with Partnership and Planning



## **Appendix 5: Template – Staff consultation paper**

### **TITLE OF PROPOSAL**

#### **1. Introduction**

- The purpose of this consultation document is to outline the proposal to **(give details of change)**. The paper is intended for **(list staff affected)** and will outline the operational and business case for proposing the change including all contractual and service changes affecting staff (and patients). The process of consultation is to ensure all staff are informed of the proposal and is also intended to allow the affected employees the opportunity to respond and take an active role in this review.
- This process will be managed in line with the Trust's Organisational Change policy, a copy which is available on eHR on the staff intranet.

#### **2. Background**

- Give an explanation on how current services are currently managed and rationale for change (i.e. business needs; improved patient care; operational efficiency; patient/staff feedback etc)

#### **3. Proposal**

- Outline the proposal, giving consideration to the potential of improvements to services. Support the rational for the proposal with evidence such as evidence from other organisations, internal audits, financial constraints, improved efficiency, service needs, customer/staff feedback etc
- Discuss implications for staff. Outline current composition of team and how the change will affect them. Outline how the department/service/structure will look if the proposal is implemented.
- Further details to include should cover:-
  - The number and descriptions of employees whom it is proposed are "At Risk";
  - The total number of employees of any such description employed on the ward/department;
  - The proposed method of selection;
  - Individual consultation meetings with staff, their representative, Workforce Relations (HR) and line manager;
  - Staff at risk of TUPE transfer if applicable.
  - Discuss how new ways of working could be possible. Proposal should also outline any education and training needs that have been identified and how this will be managed.
  - Outline what support/assistance will be available to staff.

#### **4. Staff Involvement**

- Be specific about how staff were involved before the formal part of the consultation process took place. This document should be the product of joint discussions and not the start of them. Document should state:

- What staff involvement process has taken place to date;
- Who was involved;
- What options/views have been expressed from staff and how they influenced the plan;
- Staff-side involvement and consultation prior to launching formal consultation;
- Use of away days, team meetings, 121 discussions, team briefings, questionnaires, feedback etc.

## 5. Support for Staff

Enter the paragraph below:

The Trust recognises that this can be a worrying time for staff and will provide support throughout the process in a number of ways. Staff can access support from the Trust's Learning and Careers Service which includes "one to one" guidance on using online application forms, the NHS Jobs website and our own vacancy website as well as NHS careers guidance, application and personal statement writing skills and interview techniques (including mock interviews). Information on this service will be shared with all at risk staff.

Staff can also access further support from the Trust's Staff Counselling Service who can be contacted on 0207 188 4160/4161, or the Trust's Occupational Health Service on 0207 188 4152.

Additionally, please specify any local support that you are able to provide.

## Timetable & Proposed Implementation

Outline timeframe and intended date of implementation. The minimum period for consultation is 30 calendar days. Depending on the size, complexity of department and issues raised timetable will need to be adjusted accordingly.

Indicate who staff can contact for individual meetings (manager/Workforce Relations (HR)/staff representative) and where to submit written replies/comments.

Date	Action	Lead
	Launch of formal consultation	Line Manager
	Open group meetings	Line manager
	1:1's with staff (as and when requested)	Manager & staff
	Close of consultation	Line Manager
	Consideration of staff comments and feedback	Line manager

	Formal feedback of staff proposals/comments	Management and Workforce Relations (HR)
	Final meeting before implementation of agreed proposal	All Involved – i.e. staff, management, representatives, Workforce Relations(HR)
	Proposed date of implementation	Line Manager

## 6. Appendices

Relevant workforce information, e.g. organisational structures, equality impact assessment, job descriptions of new posts, etc.

Name of Manager;

Date:

**Title of Proposal:**

**Notes of Consultation Meeting held on [DATE]**

**1. Reason for consultation**

**2. Main points of discussion**

**3. Actions and date to be completed (and lead)**

Date of next meeting:

**Manager Name:**

**Signed:**

**Date:**

- *Keep a separate list of staff who were in attendance at the meeting*

**Title of Proposal**

**Individual 1-2-1 Staff Meeting held on [DATE]**

**1. Main points of discussion**

**4. Actions and date to be completed (and lead)**

- Date of next meeting

**Manager Name:**

**Employee Name:**

**Signed:**

**Signed:**

**Date:**

**Date:**

**Checklist for managers/impact assessment before issuing a formal staff consultation paper**

<b>Action</b>	<b>Lead</b>	<b>Date completed</b>
Has the change been categorised? (Minor/Intermediate/ Major)	Line Manager and Workforce Relations (HR) – discuss with staff-side	
Has the Communications Department been briefed and a communications plan devised if necessary?	Line Manager	
Has advice been sought from the responsible Executive Director regarding seeking approval from TME/ BoD as necessary?	Line Manager	
<b>Minor/intermediate change</b>		
Have there been informal discussions with staff	Line Manager	
Have there been informal discussions with staff-side / local representatives	Line Manager/ staff-side	
Have staff been told date of implementation	Line Manager	
<b>Major change</b>		
Have you completed all actions as part of minor changes?	Line Manager	
Has a consultation paper been drawn up with the proposal of change?	Line Manager	
Have finances and savings been authorised by Finance Manager?	Line Manager/ Finance Manager	
Has the consultation paper been discussed with Workforce Relations (HR)?	Line Manager/ HR Business Partner	
Has the consultation paper been discussed with staff-side/ local representatives?	Line Manager/ staff-side	
Has the final Proposal Document been given to Staff Side at least 1 week before formal launch date?	Line Manager	
Have you informed staff of their rights to representation?	Line Manager	
Have you considered impact on staff and made available additional support including counselling and careers advice?	Line Manager	
If there is a reduction in the	Line Manager/	

workforce, have recruitment controls been put in place – locally and Trust-wide?	Recruitment Dept/ Workforce Relations (HR)	
Has an Equalities impact assessment been completed (i.e. audit of E&D info for affected staff)	Line Manager/ Workforce Relations (HR)/E&D Lead	
Has Partnership & Planning been advised of the service change for Overview & Scrutiny Committees?	Line Manager	

## **Appendix 6: Notification to the Department for Business, Innovation and Skills**

### **1. Introduction**

- 1.1 An employer who proposes to dismiss twenty or more employees as redundant at one establishment within a period of ninety days or less has a statutory duty to notify the Secretary of State for Department for Business, Innovation and Skills (BIS). This is so that government departments and agencies and the Jobcentre plus Rapid Response Service can be alerted and prepared to take any appropriate measures to assist or retrain the employees in question. An establishment is where an employee reports to work.

### **2. What is the minimum period for notification?**

- if between twenty and ninety-nine employees may be dismissed as redundant at one establishment within a period of ninety days or less- at least thirty days and in any event, before giving notice to terminate an employees contract;
  - if one hundred or more employees may be dismissed as redundant at one establishment within a period of ninety days or less- at least ninety days and in any event, before giving notice to terminate an employees contract.
- 2.1 There is no obligation to notify redundancies of fewer than twenty employees within a period of ninety days or less. The date of notification is the date on which it is received by BIS.

### **3. What information must be disclosed in the notification?**

- 3.1 BIS requires information in writing about the employer's proposals. Employers may notify by letter or by form HR1, which can be obtained from any Redundancy Payments Office. The information required is similar to that which the employer must disclose to employee representatives for consultation purposes. In addition, the notification must state when and with whom such consultation began.
- 3.2 The notification should be sent by post or delivered by hand to the office indicated on form HR1. If the employer's proposals change significantly after the notification has been given - for example, if the numbers to be dismissed increase by twenty or more or if the dismissal dates are to be brought forward or delayed - BIS should be informed. Employers must give or send a copy of the notification to the representatives with whom they are required to consult about the proposed redundancies.

### **4. Special circumstances**

- 4.1 There may be special circumstances where it is not reasonably practicable for the employer to meet fully the requirements for minimum notification periods. In such circumstances, the employer must take all reasonably practicable steps toward meeting the requirements and explain why they cannot be met in full.

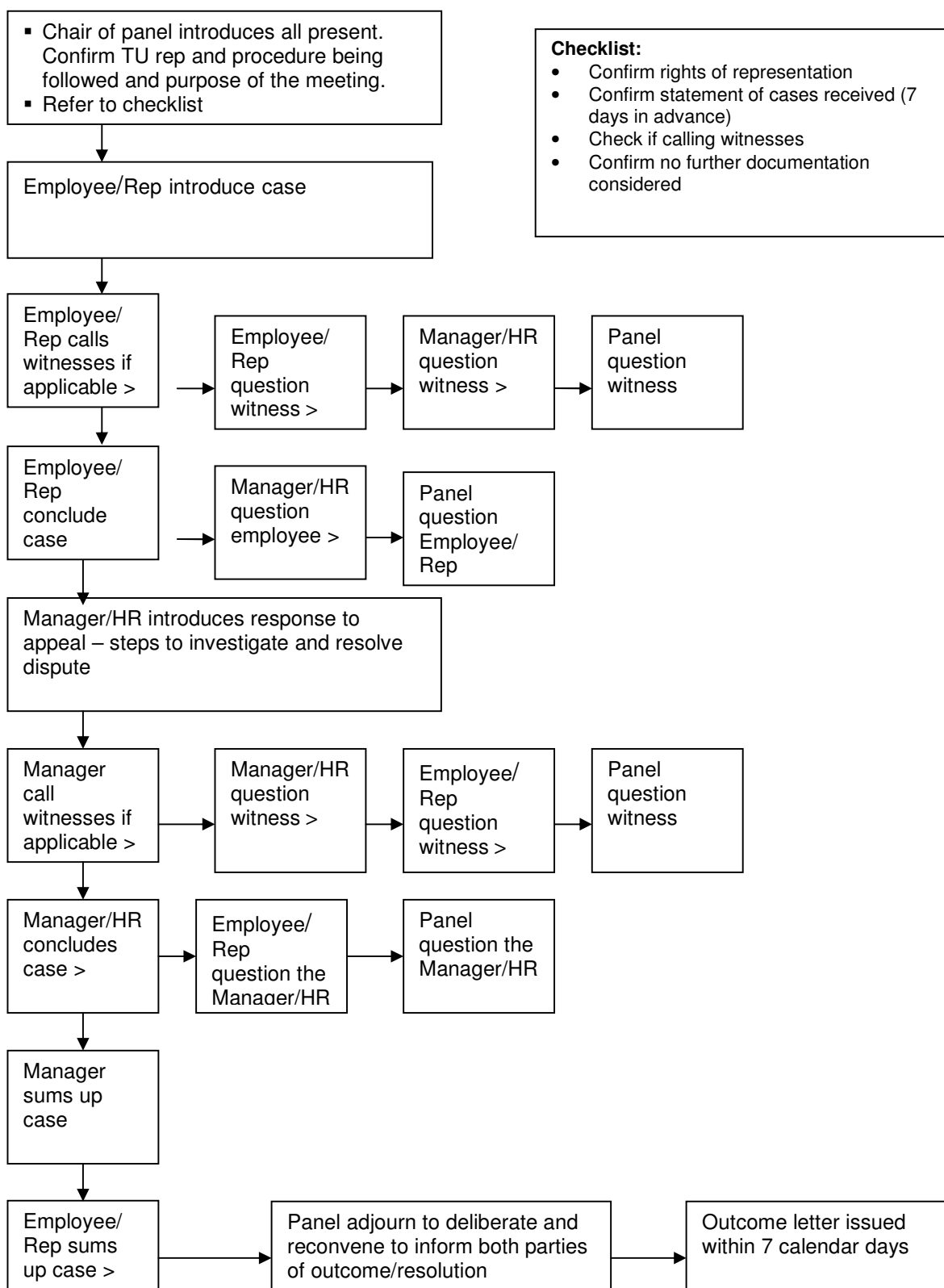
### **5. Penalty for non-compliance**

- 5.1 If an employer fails to give the required notification to BIS, the Secretary of State may institute legal proceedings that could lead, on summary conviction, to a fine of up to £5,000 (this upper limit is subject to review from time to time).

## **Appendix 7: Procedure at appeal hearing**



## **Procedure at Appeal Hearing**



## Appendix 8: Equality and Equity impact assessment initial screening framework

The framework provides a consistent and systematic way to complete EEIAs. The questions not only offer structure, but a prompt to help you to make the best possible policy decisions. Many questions would need to be answered as part of good policy development.

The questions are not exhaustive, so as you complete the template, there may be additional questions that need to be asked and answered. The framework provides an outline of the sort of information needed to satisfy our legislative requirements. Although the template addresses all of the legislative strands of equality, policy managers are also urged to think about specific demographic groups that may be at risk of being disadvantaged by a decision.

### Single identity or multiple identities – what makes most sense?

“There is little that unites LGBT needs. Rather there are a range of overlapping communities which make more sense if considered in relation to other demographic categories such as gender or race. Thus, there are Black Gay men and Lesbians, Older Gay men and Lesbians, Lesbian and Bisexual women etc. When seeking to define needs and develop models of community development for the LGBT population of Lambeth, it is worth using this model of communities rather than seek to identify a single over-arching community.”

Lambeth LGBT matters research (Sigma 2006)

## Initial screening template

### 1. Policy aims

1.1	Proposal, service, programme, strategy or procedure being assessed	
1.2	Name of person responsible (policy manager) and contact details	
1.3	Is this a new, existing or revised policy/function	

1.5	What does this policy, service, programme, strategy intend to achieve?	
1.6	How does this fit into wider strategic objectives/priorities?	

## 2. Evidence base

To make good, defensible decisions, it is critical that evidence is identified and reviewed. There are a number of different places from which to gather evidence, both internally (i.e colleagues, reports, bulletins) and externally (i.e research, other professionals, reports). Both qualitative and quantitative evidence is useful and will help to provide the evidence base that will help to make better assessments.

The minimum legal standard for completing EEIAs is to assess the impact of a policy decision on ethnicity, gender and disability. We do not want to just meet the minimum standard, we want to go beyond that and assess across the **REGARDSS** strands (**race, ethnicity, gender, age, religion/belief, disability, sexual orientation, socioeconomic inequality**).

This EEIA also takes into consideration our role as a representative of the state, and our delegated responsibilities to ensure the **human rights** of staff, the public and our patients are protected and enshrined in everything that we do.

2.1	What qualitative and quantitative information and evidence would enable you to make the best assessment and what do they say regarding equality? (consider health needs assessments, public health input, research, consultations, stakeholders, local and national reports etc)	
2.2	If there are gaps in the evidence how will this be generated?	
2.3	Does the evidence show that there are different population groups who have different needs or who are suffering inequality (i.e. consider health	

	inequalities, poorer progression for staff, difficulties in retaining certain staff, differing experiences of the service etc) across the <b>REGARDSS</b> strands	
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2.4	<p><b>Internal Involvement and Consultation:</b> (e.g. with Departments, Staff (including support groups), academic partners, local authorities)</p> <p><i>Does this initiative affect the experiences of staff? How? What are their concerns?</i></p> <p><i>How have you consulted, engaged and involved internal stakeholders in considering the impact of this proposal on other public policies and services?</i></p> <p><i>What forms of consultation, engagement and involvement have been most effective?</i></p> <p><i>What positive and adverse impacts were identified by your internal stakeholders?</i></p>	
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### 3. Assess the impact on equality and human rights

Considering the information above, what is the impact of this policy or function on the differing strands of equality? Don't only think about single REGARDSS strands; consider the fact that people have multiple identities. On closer inspection, a very specific demographic may be suffering greater inequality than the headline figures may show. It is important to interrogate these assumptions to reduce the risk of enacting a policy that inadvertently increases inequality.

## Human Rights

3.1	What opportunity is there to promote equality of opportunity, good relations or increase participation?	
3.2	What are the potential negative or adverse effects?	
3.3	What is the potential for negative or adverse effects assess  likelihood (1 = unlikely, 5 = certain)  severity (1 = very mild, 5 = very severe/ risk of death)  numbers of people affected (1 = very few, 5 = almost everyone)	
3.4	Is there public concern about possible discrimination/ unfairness/ inequality?	
3.5	How much evidence is there to support these conclusions?  1 = none 2 = little 3 = some 4 = substantial	
3.6	What ability do we have to; <ul style="list-style-type: none"> <li>• Alleviate or change unfair, adverse or discriminatory effects?</li> <li>• Promote and enhance positive effects</li> </ul>	
3.7	Could the policy or function affect an individual's human rights? Consider specifically the articles below of the Human Rights act	

	(1998): Article 2 – Right to life Article 3 – Right not to be tortured or treated in an inhumane/degrading way Article 5 – Right to liberty Article 7 – Right to no punishment without law Article 9 – Right to respect for private and family life and correspondence	
3.8	What steps can be taken to negate this?	

#### 4. Screening assessment and next steps

Based on the answers above, a decision needs to be made on how to proceed. This will require a decision to be taken on whether a detailed and full EEIA is required; if further information is required and will definitely include an action plan that will, at a minimum, monitor the impact of the policy.

4.1	Give an overview of the action that needs to be taken now?	
4.2	Complete an action plan to highlight the next steps that need to be taken	

Action	Responsibility	Timescale

4.3	<p>Does the screening show either;</p> <p>That there could be differential or adverse effects on different population groups</p> <p>The evidence so far supports the potential for differential effects</p> <p>There is not enough evidence to rule out differential effects</p> <p>There is substantial public concern about differential effects</p> <p>If the answer is yes, a full EEIA is required.</p>	
4.4	Is this policy or function a lawful positive action initiative?	

### Assurance

Name of lead	
Lead director	

